

LIVES

OF

THE LORD CHANCELLORS

AND

KEEPERS OF THE GREAT SEAL

OF

ENGLAND,

FROM THE EARLIEST TIMES TILL THE REIGN OF KING GEORGE IV

By JOHN LORD CAMPBELL, LL.D., F.R.S.E.

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LIVES

OF THE

LORD CHANCELLORS OF ENGLAND.

CHAPTER CLXXXV.

CONTINUATION OF THE LIFE OF LORD ERSKINE TILL HE RESIGNED THE
GREAT SEAL.

WE must now regard Erskine in his political capacity while he was a member of the Fox and Grenville Government. He does not seem to have had any great A.D. 1806. weight either in Parliament or in the Cabinet. He rather shocked the Peers by the egotism of his maiden speech among them, which was upon the bill to indemnify witnesses who were to be examined on the trial of Lord Melville:—

“I feel it my duty, my Lords,” said he, “to communicate my sentiments on a subject of so much consequence to proceedings in Courts of law. I have been seven-and-twenty years engaged in the duties of a laborious profession, and while I have been so employed I have had the opportunity of a more extensive experience in the Courts than any other individual of this generation. In the profession there have been and there now are men of much more learning and ability than I pretend to, but it is very singular that in these twenty-seven years I have not for a single day been prevented from attending in the Courts by any indisposition or corporeal infirmity. Within much the greater part of this period I was honoured with a patent of precedence, and have been engaged in every important cause in the Court of King’s Bench. Your Lordships would have no concern with the history of my political life were it not connected with the present inquiry; but when I declare that I have never known an objection taken to an interrogatory, ‘that the answer might subject the witness to a civil suit,’ it is material for your Lordships to know that my experience is not only equal to that of any individual Judge, but of all the Judges collectively. A decision of Lord Kenyon to the contrary has been cited; but the report must be wrong, for I was counsel in the cause, and I have no recollection of such a point

having been mooted, and the opinion imputed to Lord Kenyon is different from what I have often heard him express. I must, therefore, oppose this bill, and recommend that our legislation on the occasion be confined to an act *declaring* the existing law; and that, I think, will be sufficient to obviate the danger of witnesses refusing to be examined because their answers may affect their civil rights, and if no other Lord more competent will undertake the task, I will myself bring forward a measure which will place the question for ever in repose."

He accordingly introduced a declaratory act to that effect, which passed both Houses, and received the royal assent.

The first hostile discussion which took place in the House of Lords after the formation of the new Government was upon the appointment of Lord Ellenborough, Chief Justice of the King's Bench, to a seat in the Cabinet. Lord Eldon and other Peers having strongly condemned it on the ground that the Cabinet Minister might have, as a Judge, to try the prosecution, for treason or sedition, which he had recommended, and on the event of which the stability of the Government might depend, the Chancellor left the Woolsack to plead for it, but was not very successful. After a laboured panegyric upon the learning and talents of Lord Ellenborough, he contended that the King was entitled to the assistance in council of all his subjects, and that no office, civil or military, lay or ecclesiastical, was a disqualification to a subject performing the duties of a Privy Counsellor. He denied that the summoning of the Chief Justice of the King's Bench to the Committee of the Privy Council, commonly called the CABINET, was either illegal or unconstitutional:—

"*The Cabinet*," said he, "is a word never mentioned in any Act of Parliament, or in any parliamentary proceeding, and is wholly unknown to the law and the constitution. The King has his Great Council, consisting of the two Houses of the Legislature, and his Privy Council, consisting of such individuals as he chooses to swear to give him faithful advice on affairs of state. He seldom summons all these in a body into his presence, referring particular subjects to particular members of the Privy Council, who are responsible respectively for the advice which they give to him. No one denies that a Judge may properly be sworn of the Privy Council, and since the Revolution the chiefs of the Courts in Westminster Hall have generally had this honour conferred upon them. But it would be an unqualified interference with the King's prerogative to tell him that he shall not ask advice of a Privy Counsellor. It has not been usual for the Chief Justice of the King's Bench to be summoned to the Committee of the Privy Council, called the Cabinet; but that venerable magistrate Lord Mansfield was constantly so summoned, during several administrations, without any complaint or suspicion that

thereby the law or the constitution had been violated. There have been repeatedly Lords Justices named to exercise the functions of the Executive Government in the absence of the Sovereign, and the Lord Chief Justice of the King's Bench for the time being has generally been one of them, without any suspicion being cast upon his judicial purity. As to prosecutions for treason, Judges, members of the Privy Council, have often attended when persons arrested on charges of treason have been examined, and I believe that prosecutions for libel are left to the Attorney-General and the Home Secretary. Notwithstanding the elevated situation which I occupy in this House, by the pleasure of my Sovereign, I will never forget my duty to the people, whose partiality I have so long enjoyed. I will ever bear in mind the active and successful part which I have taken to support TRIAL BY JURY; and if I saw any danger to public liberty in the appointment of Lord Ellenborough to a seat in the Cabinet, I should have been the first to oppose it; but taking a totally different view of the subject, I shall be glad, sitting by the side of my noble and learned friend, to consult, in conjunction with him, for the public welfare."

The resolution of censure was negatived without a division,^a but the appointment was condemned by the public voice, and justly brought a great slur upon "ALL THE TALENTS." To urge that the "Cabinet is not known to the law," is a mere quibble.^b By our constitution in practice, it is a defined and acknowledged body for carrying on the executive government of the country, and the question cannot be evaded, whether a Judge employed in administering the criminal law may constitutionally belong to it? I without hesitation answer in the negative. The duties of Criminal Judge and Member of the Cabinet are incompatible. I can say from my own experience under Lord Grey's administration, which may now be referred to as matter of history, that the policy of instituting prosecutions both for treason and seditious libels does and must come under the consideration of the Cabinet. Suppose that the Chief Justice of the King's Bench, being a Member of the Cabinet, absents himself from such discussions, how are the public to know that he was absent when he comes to preside at the trials ordered by his colleagues?—and if he were to proclaim the fact, how can he, without suspicion, give an opinion upon the seditious ten-

^a Parl. Deb., vols. vi. vii.

^b It might be very convenient for a Prime Minister, upon a requisition by some aspiring subordinate, to be introduced into the Cabinet, to be able to say to him,—“My dear friend, the Constitution knows nothing of the CABINET: you are already a Privy Councillor,”

and, in point of law, all Privy Councillors are equal. I am glad that I have not to refuse a request of yours; do not let me hear another word about the Cabinet; you and I have an equal right to be consulted by the Sovereign when the advice of either of us is wanted.”

dency of a publication which contains much abuse of the public measures to which he is a party? The evil does not cease with the Government to which he belonged, for when that is dissolved and his political rivals are in power,—being stamped with the character of a partisan, he is in danger of being suspected of a wish to thwart their prosecutions, and thereby to hasten their fall.^c—I do not think there is now much danger of the precedent being followed.^d

On the next question which arose in the House of Lords I must likewise use the freedom of dissenting from Lord Chancellor Erskine. He moved a resolution that, pending Lord Melville's trial on the impeachment by the Commons, no part of the proceedings should be published; and even after the hearing of the case was over, he supported a further resolution, that the prohibition should be continued "until after the House shall have delivered its final judgment upon the said impeachment,"—with much *palaver* about the dignity of the House and the danger to the administration of justice from partial reports.^e But the House of Lords during an impeachment is a court of justice sitting *foribus apertis*,—that is, the public being admitted as far as there is accommodation for them,—and an accurate report of the proceedings is merely an enlargement of the Court, admitting all to be virtually present who choose to read a newspaper. Where there is a trial lasting many days, it is utterly impossible that by any other means than a daily publication, the bulk of the community can ever be made acquainted with the merits of the case. It is absurd to suppose that judges or jurymen can be biassed by an accurate report of what they have heard, and improper comments upon the merits are likely to be more

^c When Mr. Perry, the proprietor of the "Morning Chronicle," was tried in the year 1810, for a libel on George III., and was acquitted under the direction of Lord Ellenborough, I happened to be sitting, along with several other juniors, immediately behind Sir Vicarv Gibbs, the Attorney-General, who turned round to us and said in a loud whisper, "We shall never again get a verdict for the Crown while the Chief Justice is in opposition." Yet the acquittal was allowed by all impartial persons to be highly proper,—the alleged libel merely alluding, not disrespectfully, to the prejudices of the reigning Sovereign against his Roman Catholic subjects. Gibbs had a spite against Ellenborough, who

said of him that "his nose would take ink stains out of linen."—Sir Vicarv went generally by the soubriquet of SIR VINEGAR; and one fine summer's day, looking more than usually *acetous*, the phenomenon was thus accounted for.

"The Sun's bless'd beam turns VINEGAR more sour."

^d This was written in 1847, when I was myself a member of the Cabinet, holding the office of Chancellor of the Duchy of Lancaster. Being made Chief Justice of England in 1850, I of course attended the Cabinet no more.—*Note to 4th Edition*, 1857.

^e 6 Parl. Deb. 928; vii. 250.

mischievous if not corrected by a full statement of what has actually passed. The House was obeyed in this instance, but such an injunction was not issued on the trial of Queen Caroline, and would not now be endured.

On the motion for the removal, by an address to the throne, of the Irish Judge Fox, accused of misconduct in his office, the Chancellor made a very characteristic speech:—

“My noble and learned friend who spoke last, alluded to the motto which I have selected, which ornaments the panel of the carriage at your Lordships’ door, and which is to be borne, with the insignia of the Erskine family, through all future generations. For ‘TRIAL BY JURY’ I have fought in the hottest times, and shall ever fight; but I do not imply anything in favour of the Jury separate from the Judge who presides at the trial; it is the trial of Judge and Jury which attracts my respect and admiration, and I do not stand up for the Jury more than for the Judge. Let us proceed against Mr. Justice Fox constitutionally. I have been no flatterer of Judges. Did ever any man go further to remind Judges of their duties to the country? For my boldness I have received public rebukes, which I have returned I trust with honest indignation. It is my pride that I was honoured with a gown of precedence, which permitted me to be counsel against the Crown, and the recollection of what I did on these occasions for my country constitutes no inconsiderable portion of the happiness of my life. Feeling as I do, I join with peculiar fervour in the wish of my noble and learned friend, that Judges may not be placed above the law, and permitted to trample on the rights of the subject. The true question is, what is the proper mode of investigation to be adopted in this case? Witnesses have been examined at your bar, but in the absence of the accused: and though your Lordships are exalted, enlightened, and learned, you are still men, and subject to all the infirmities of human nature. The witnesses have said, that this learned Judge condescended to bully the jury—but what a spectacle has this House exhibited! While we are arraigning the Judge, what are we doing ourselves? Have you not, behind his back, been haranguing one another?—inflaming one another? Must not all justice perish if such proceedings are sanctioned? Suppose when you ask the Commons to concur in your address they were to say ‘We choose to proceed by impeachment,’ in what a situation would you be, having already prejudged the man whom you would be called upon to try? Your Lordships would do better by referring the case to the ordinary tribunals, and letting the guilt or innocence of the learned Judge be decided by a jury upon a *scire facias* to repeal the patent by which he holds his office. At all events, let not your Lordships prejudice a cause which you may probably be called upon judicially to determine.”

The bill for the immediate abolition of the Slave Trade—

the great glory of the Fox and Grenville administration, was supported by their Chancellor, who took occasion to announce his change of opinion upon this subject. "I was in the West Indies," said he, "some years ago in the service of my country, and the condition of the slaves there seemed to me to be comfortable; they were generally treated in the kind manner used by great families in England to their ancient domestics. Believing them to be happy and contented, I could not be hostile to a system which produced such results. I have since had reason to think that I was deceived by outward appearances, and that, without evil, man can never be the property of man. The horrors of a Guinea ship have been lately disclosed to me in the course of my profession. During the trial of a policy of insurance on a cargo of slaves it appeared, that having risen on the crew in hopes of liberty, and being fired upon,—some of them were mortally wounded, some voluntarily jumped overboard a prey to the sharks,—while others, who remained on board, died, from refusing to take food,—and a British jury was called upon to say, for which of these classes the underwriters were to make compensation to the slave dealers? This country is the morning star which has enlightened Europe, and let us now set an example of humanity and justice which may be followed by all the nations of the earth." ^a He had the satisfaction, as First Lord Commissioner, to announce the royal assent to this bill.

When the session closed he delivered the royal speech, and was observed, in accordance with the opinions he had so often expressed since the commencement of the war, to read with peculiar emphasis the sentence announcing that "His Majesty being always anxious for the restoration of peace on just and honourable terms, was engaged in discussions with a view to the accomplishment of this most desirable end." ^b But these hopes proved delusive; through the ambition and obstinacy of Napoleon, hostilities continued to rage in Europe for many years,—till the hour appointed for his overthrow at last arrived.

During the recess, all the friends of civil and religious liberty were deeply afflicted by the death of Mr. Fox, at a time when his countrymen, having renounced the prejudices they had long fostered against him, were eager to avail themselves of his services in negotiating a peace or in conducting

^a 7 Parl. Deb. 807.

^b 1b. 1282.

the war,—which all agreed had been hitherto sadly mismanaged. Erskine felt the blow with peculiar severity, for he had not only, since his first entrance into public life, looked up to this great patriot and most amiable man as his political chief, but he had cherished for him an uninterrupted and ardent private friendship. On the melancholy day when the mortal remains of Charles James Fox were deposited in Westminster Abbey, near those of his illustrious rival William Pitt,—their deaths being divided only by a few short months,—Erskine was one of the pall-bearers, and could ill conceal his agitation as the coffin was lowered into the grave, and the awful words were pronounced, “Earth to earth—ashes to ashes—dust to dust.”¹

He continued to hold the Great Seal, but he was not much consulted about the measures of the Government. From the meeting of the new Parliament in December till the Ministerial crisis in March following, he did not speak in the House of Lords, except on occasions of form and ceremony. Lord Grenville himself proposed and carried through the bill for introducing into Scotland jury trial in civil cases; and bills brought up from the other House by Romilly to subject real estates to simple contract debts, and for other law reforms, remained unnoticed.

From the beginning of March nothing was talked of or thought of but the bill moved by Lord Howick, now A.D. 1807. the leader of the House of Commons, for allowing Roman Catholic officers in England to hold commissions in the army in the same manner as since the year 1793 they had been permitted to do in Ireland. This bill was not mentioned to Lord Erskine till it was about to be brought in; and then, strange to say! he disapproved of it, although he did not think it of sufficient consequence to require his resignation. He concurred in the propriety of withdrawing it when it was found so obnoxious to the King; but he strenuously supported Lords Grenville and Howick in their resisting the unconstitutional requisition

¹ “Most of the persons present seemed as if they had lost a most intimate and a most affectionate friend.”—*Romilly's Diary*. Even a bitter political opponent soon after sang—

“For talents mourn untimely lost,
When best employ'd and wanted most;
Mourn genius high and lore profound,
And wit that lov'd to play, not wound;

And all the reasoning powers divine
To penetrate, resolve, combine;
And feelings keen, and fancy's glow,—
They sleep with him who sleeps below.”

Introduction to the First Canto of “*Marmion*.”

by the King, that they should give him a written promise, signed with their names, never again to propose any measure for farther relaxing the penal laws against the Roman Catholics.

His Majesty not yielding to the representations made to him on the impropriety of his demand, Lord Erskine, as the Keeper of his Conscience,—in a long interview with him, —attempted to bring him to reason. Of this we have the following amusing narrative in the Diary of Sir Samuel Romilly :—

“ March 19th.—The Chancellor gave Pigot and me a long account of a very serious conversation he had yesterday with the King; I should rather say, of a long speech he made to the King. When he went in to his Majesty, and had told him that the Recorder's report was to be made, he says that, though it is contrary to all court *etiquette* to speak on any subject which the King has not first mentioned, he proceeded somewhat to this effect. He said he was about to do what he believed was very much out of order; but he hoped that his Majesty would excuse it in consideration of the very extraordinary conjuncture in which the country was placed; that he was sensible, when he first entered into his Majesty's service, his Majesty had entertained a prejudice against him; that he was quite satisfied that this prejudice was now entirely removed; and that his Majesty did him the justice to believe that he had served him faithfully; that upon the measure which had been the original occasion of the present state of things (meaning the Catholic Bill, as it has been not very properly called) he thought, both religiously and morally, exactly as his Majesty himself did; that, however, after what had passed, it appeared to him that the Ministers who had signed the minute of council could not possibly, with any consistency of character, retract it; and that to give a pledge not to offer advice to his Majesty on measures which the state of public affairs might render necessary, would be, if not an impeachable offence, yet, at least, that which, constitutionally, could not be justified. He then said that he thought it his indispensable duty to represent to the King the situation in which he stood; that he was on the brink of a precipice; that nothing could be more fatal than to persevere in the resolution which his Majesty had formed of dismissing his Ministers; that the day on which that resolution was announced in Ireland would be a day of jubilee to the Catholics; that they would desire nothing more than to have a ministry who were supported by *all the talents* and weight of property in the country go out upon such a measure; that he ventured to tell his Majesty that, if he proceeded with his resolution, he would never know another hour of comfort or tranquillity. The King, he says, listened to all this without once interrupting him; that he could observe, however, by his countenance, that he was greatly agitated; and when the Chancellor had concluded, the King said to him, ‘You are a very honest man, my Lord, and I am very much obliged to you:’—and this was all. The Chan-

cellor thinks that he has made a great impression, and half flatters himself that the King will retract his resolution." ^k

Several days elapsed quietly; and Erskine, ignorant of the intrigues of Lord Eldon and the Duke of Cumberland, who were then negotiating for the formation of a new Government, really believed that the danger had passed by, and that he might remain in office, under George III., till his patron and friend, the Heir Apparent, should mount the throne,—when he expected that the chief power would be vested in his own hands. He was in this frame of mind when, late at night on the 24th of March, he received a summons to attend the King on the morrow before twelve o'clock, to deliver up the Great Seal.

Notice had been put up in Lincoln's Inn Hall that judgment would be pronounced the next day in another branch of the cause of *Purcell v. M'Namara*, which had been argued before him, assisted by the Master of the Rolls. Soon after ten he entered the Court, which was densely crowded,—his Honour following him; and when they were seated, he addressed the Bar in these words:—

"I had fixed this morning as the earliest and most convenient time for finishing, with the assistance of his Honour the Master of the Rolls, at least the judicial part of this long and important case; but late last night,—much too late to make it possible for me to apprise you of it,—I had notice to attend his Majesty, with his other Ministers, before twelve o'clock this day. I shall, therefore, ask his Honour to deliver his opinion, in which I heartily concur,—his Honour and myself having had long deliberations upon the subject. With regard to the other matters which stand for my own judgment, I shall not have time to deliver them in open Court. Adopting the same course as my Lord Eldon when he retired from the office of Lord Chancellor, I shall send them to the register.

"If I should be called out of this world as suddenly as I have been out of this place, it will be a happy thing for me if I can render as clear an account of my conduct through life as of my administration of justice during the period I have presided here. I believe it would not have taken an hour by the clock to have delivered all the judgments that remain for me to pronounce.—I have altered nothing here.—I have removed no man.—But I cannot with justice to myself, or with propriety as it regards you, retire from this Court without returning you my most sincere thanks for the kind, honourable, and liberal manner in which you have uniformly conducted yourselves towards me.—I approach the threshold of my high office with conscious pride and satisfaction,—par-

^k *Life of Romilly*, ii. 187.

ticularly when I consider the complicated nature of the duties I have had to fulfil, and their newness to me. I am happy to acknowledge that it is to the learning of the Bar, and the assistance I have derived from you, that I am indebted for having been enabled to administer these duties with justice and equity.—In retiring to private life, it will be my delight to cultivate that acquaintance which I have had with you in my public station.”

Mr. Attorney-General (Sir A. Pigot):—“I am sure, my Lord, I should not do justice to the sentiments of the Bar, if I were to suffer your Lordship to leave this Court without expressing their grateful sense of the kindness shown to them while your Lordship has presided here.”

The whole Bar rose and bowed to his Lordship, who instantly after retired.^m

He then proceeded to the Palace. There he found all his colleagues assembled, and they were introduced one by one into the royal closet, for the purpose of resigning their wands, seals, keys, and other insignia of office. To the general surprise, Erskine returned still bearing in his hand the purse containing the Great Seal; and some supposed that, by reason of his concurrence of sentiment with his Majesty as to the propriety of refusing any farther concession to the Catholics, he had been invited, and had consented, to serve under the “No-Popery Ministry.” But the explanation of this phenomenon was, that “the King, understanding that there were some causes which had been argued, but in which the Chancellor had not yet pronounced his decrees, desired him to remain a week longer in office, that he might finish the business in his Court.”ⁿ

The following day came the Ministerial explanations in the House of Lords; and Lord Erskine said,—

“He considered the subject of the Catholic question as completely irrelevant as any other whatever to the change in his Majesty’s councils, although it happened to be the subject which led to such a conjuncture. Although a member of the late Government, he was decidedly adverse to the measure, and should not have advised it, because he did not see the political necessity for it which had induced the great majority of his colleagues to recommend it to his Majesty. Yet he thought they were highly commendable in giving his Majesty such advice as they in their conscience thought just—as well as in declining to be bound by any pledge to refrain from giving to their Sovereign, upon this or any subject, such advice as they conceived was for the public good. The firmness with which his Majesty had maintained his own conscientious opinions, by resisting the bill in the extent to which it went, had also his respect-

^m Annual Register, 1807, p. 415.

ⁿ Life of Romilly, ii. 189.

ful approbation; but he must say his colleagues did right in declining to be bound never again to advise the measure under any possible pressure of circumstances. At the moment when his Majesty's late Ministers relinquished the bill in concession to his Majesty's scruples, they stood in the same situation as on their first accession to office. The right of his Majesty to change his Ministers no man would deny; but for them to have remained in power upon any such condition as the pledge alluded to, would have been, in his opinion, contrary to every principle of Ministerial duty, and directly in violation of the Constitution. Their dismissal for no other reason than their declining the pledge, he was afraid was a declaration to the Catholics that the penalties and disabilities under which they laboured were to be considered an essential part of our system of rule: what the result might be of such a conviction taking possession of their minds, he was afraid even to conjecture."

Impartiality requires me to mention a circumstance which, I recollect, was generally censured at the time,—that although Lord Erskine had been allowed to retain the Great Seal for a week only to give judgment in causes which had been argued before him, he employed the interval to concoct a job for the benefit of a member of his family. It is thus related by Romilly:—

"Two days before Lord Erskine parted with the Seal, he appointed his son-in-law, Edward Morris, a Master in Chancery. Sir William Pepys was prevailed upon to make a vacancy by resigning. This is surely a most improper act of Lord Erskine's. He ought to have considered himself as out of office last Wednesday. Morris, though a very clever and very deserving man, has no knowledge in his profession of that particular kind which is necessary to qualify a man to discharge the duties of a Master. This is a matter which will draw reproach on the whole Administration; though in every other department they have most scrupulously, as I understand, abstained from making any promotions."

He had, no doubt, supposed, that while he held the Great Seal, all its powers, privileges, and patronage belonged to him; and I believe that if the vacancy had occurred in this interval by death, he would have been justified, according to established usage, in filling it up.

Having cleared off his arrear of judgments, and on the 1st of April granted the injunction which I have mentioned in the case of *Gurney v. Longman*,⁶—without any fresh leave-taking, he made his bow to the Bar, and proceeded to the Queen's Palace. There he finally parted with the Great Seal, and it was delivered to Lord Eldon, who kept it in his firm grasp for a continuous period of above twenty years.

⁶ Life of Romilly, ii. 192.

P *Ante*, Vol. VIII., p. 391.

From Lord Erskine's farewell address to the Bar, it appears that he was himself well satisfied with the manner in which he had performed the duties of Chancellor; and, though he did not do much to advance the science of equity, the suitors who came before him seem to have had little cause to complain of his decisions; but I am afraid that Romilly, ruminating upon the probable disposal of the Great Seal upon a contemplated change of Ministry a few months after, expresses the general opinion of his own profession and of the public:—

"The present Ministry can hardly, considering what the crisis is to which public affairs are hastening, be very long in power; and if those whom they have supplanted should recover their authority, the Great Seal can scarcely be again intrusted to the hands of Lord Erskine: with all his talents (and very great they undoubtedly are), his incapacity for the office was too forcibly and too generally felt for him to be again placed in it."⁹

His faults as a judge were afterwards greatly exaggerated, and a report was spread abroad that most of his decrees were reversed. This having reached the United States of America, gave rise to a wager, which the parties, with Transatlantic coolness, referred to himself for decision. His reply to the American senator who had taken the *reversal* side of the question is extant, and is a striking instance of his buoyancy of spirit and frank good opinion of himself.

"SIR,

"Upper Berkeley Street, Nov. 13, 1819.

"I certainly was appointed Chancellor under the Administration in which Mr. Fox was Secretary of State, in 1806, and could have been Chancellor under no Administration in which he had not had a part; nor would have accepted, without him, any office whatsoever. I believe the Administration was said, by all the *Blockheads*, to be made up of all the *Talents* in the country.

"But you have certainly lost your bet on the subject of my decrees. None of them were appealed against, except one, upon a branch of Mr. Thelluson's will—but *it was affirmed* without a dissentient voice, on the motion of Lord Eldon, then and now Lord Chancellor. If you think I was no lawyer, you may continue to think so. It is plain you are no lawyer yourself; but I wish every man to retain his opinions, though at the cost of three dozen of port.

"Your humble servant,

"ERSKINE.

"To save you from spending your money upon bets you are sure to lose, remember, that no man can be a great advocate who is no lawyer. The thing is impossible."

⁹ Life of Romilly, II. 394.

CHAPTER CLXXXVI.

CONTINUATION OF THE LIFE OF LORD ERSKINE TILL THE PRINCE OF WALES, BECAME REGENT, RENOUNCED THE WHIGS.

SOME have regretted that Erskine did not close his mortal career on the day when he resigned his office; but although he cannot by any means be held up as a ^{A.D. 1807.} model for ex-Chancellors, he continued for many years, occasionally, to render important services to the public. He began with good resolutions—thus writing to a friend: “I am now retired—most probably for life—and am living what for me may be considered an idle, but I hope not a useless, life—as I keep up my reading, in case the chances of this changeable world should give me the opportunity of turning it to public account. Should I, however, remain long out of a public station, I shall find healthful and interesting occupation in the cultivation of the grateful Earth, who, if well cultivated, is less capricious in the distribution of her favours than Courts or Princes.”

The late change of Government had been so highly unconstitutional, that “all the Talents” for some time thought they must speedily be restored to power. They had a decided majority in a House of Commons returned after an appeal by them to the people, and all the measures which they proposed had passed the other House of Parliament. The bill on which they had differed with the King was allowed by unprejudiced men to be salutary, and no one had ventured to say a word in defence of the pledge he had demanded from them. Accordingly the Marquess of Stafford moved a resolution, “That it is the first duty of the responsible Ministers of the Crown not to restrain themselves by any pledge from giving any advice to his Majesty which, to the best of their judgment, the course of circumstances may render necessary for the honour of his Majesty’s crown and the security of his dominions.” On this occasion Erskine spoke early in the debate, and thus began:—

“The particular situation in which I was placed in his Majesty’s late councils, as it regards the subject now under consideration, and the many public references which have been made in various places to my office and to my opinions respecting it, make it not unfit, I hope, that I should seek the earliest opportunity, consistently with the forms of the House, of explaining to your Lordships why I think the resolution deserves your support. My Lords, it has been the fashion to represent the introduction of the bill which led to the dissolution of the late Administration, as an extravagant act of political suicide—as a rash, useless, and wanton proposition, dictated by no expediency, and opposed by insurmountable obstacles, within the knowledge of those who introduced it. Nay, my Lords, charges much more serious have been made. It has been more than insinuated that, to overcome these obstacles, recourse was had to the most unworthy arts of deception. Nothing is more easy, my Lords, for those who have an interest in such misrepresentations, than to invent and propagate them; but it is not so easy to obtain belief (except in the surprise of the moment) that persons of acknowledged skill and ability as statesmen should suddenly conduct themselves so absurdly, or that distinguished and characteristic integrity should suddenly give place to dishonour and falsehood.” Having at great length explained the existing state of the law with respect to Roman Catholics bearing military commissions in Ireland and in England, —with the proposed alteration of it, and the course which the affair had taken between the King and his Ministers, he thus proceeds:—“I never, therefore, at the time the Ministry was on the eve of dissolving, could discover any just or rational ground for its dissolution; and I could never, therefore, persuade myself that their removal was the spontaneous act of the King, because, having the highest opinion of his Majesty’s honour and fairness, I could not reconcile their removal with either. A pledge was tendered, which is not only not argued to be legal, but the illegality of which is considered as a childish truism, utterly unfit for debate in Parliament: and yet this refusal, without farther parley or explanation, and in the midst of the most respectful and affectionate submission, was made the only ground of a total, indiscriminate dismissal. I believe that independently of the avowed cause, the fate of the late Ministry had been settled by some secret advisers. We all know, my Lords, that in political life there are wheels within wheels, as many almost as in a silk-mill,—that the smallest, and apparently the most insignificant, are sometimes, from their situations, the most operative; and that some of them, besides, are sunk so deep in the dirt that it is very difficult to find their places, though one can very easily find their tracks and their effects. It is admitted that, consistent with the coronation oath, Roman Catholics may be ensigns, lieutenants, captains, majors, and lieutenant-colonels in the army; but it is argued that they cannot rise to the rank of general officers without a violation of the King’s solemn obligation to support the Protestant establishment of the Church of England. What, in the name of wonder, can the Church have to do with this distinction? Whether it was expedient,

as a question of state, to open the army to Catholics at all, the thing is done. We are therefore confined only to the mysterious enigma of the *perjury* in carrying on their promotion to be officers on the staff. My Lords, as I was no party at all to the bill, I cannot but feel a most natural anxiety to deliver myself from the possible imputation of such gross stupidity and folly as to have ever objected to it on that principle. It should be remembered, my Lords, that, by the coronation oath, his Majesty swore to govern his people according to the laws and customs of this realm; and that, to require a pledge of his Ministers not to give him counsel on any subject, was manifestly contrary to the constitution and the laws and customs of the realm. To say, therefore, that the King, without an adviser, was the author of this, was to say that he had undoubtedly broken his coronation oath." He concluded with the following characteristic disclaimer of being at all tainted by any leaning to Popery:—"My Lords, I have now only to assure you that no man can be more deeply impressed than I am with reverence to God and religion, and for all the ministers and professors of the Christian faith: I am sure that I need not except even the right reverend prelates in whose presence I make this solemn declaration. My Lords, I glory in the opportunity of making it. Would to God that my life could be as pure as my faith! I consider the Reformation, and its irresistible progress in the age which has succeeded it, as the grand era in which the Divine Providence began most visibly to fulfil the sacred and encouraging promises of the Gospel. I look forward, my Lords, with an anxiety which I cannot express, but with a hope which is inextinguishable, to the time when all the nations of the earth shall be collected under its shadow, and united in the enjoyment of its blessings. It is by that feeling, my Lords, mixed perhaps with what may be considered as the prejudices of education, but which I cannot myself consider to be prejudices, that I have been kept back from going the full length of Catholic expectation. I consider the Roman Catholic faith as a gross superstition—not chargeable upon the present generation, which contains thousands and tens of thousands of sincere and enlightened persons—but the result of the darkness of former ages, and which is fast giving way under the hourly increasing lights of religious and philosophical truth,—not that vain and contemptible jargon which has usurped the name of philosophy—but the philosophy of nature, which lifts up the mind to the contemplation of the Almighty, by approaching to him nearer, and discovering his attributes in the majesty and harmony of his works."

The motion was negatived by 171 to 81, and all hope of disturbing the new Government was cut off by a more mortifying defeat in the Lower House, where a similar notion was made by Mr. Brand, and where the Whigs had calculated on a large majority.

* Romilly says with astonishment, "No notice was taken of this by any of the Peers who spoke after."—*Lyc.*, ii. 197.

* 9 Parl. Deb. 353.

* "7th April. I dined at Lord Howick's, with a large party of the late Ministers and

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Erskine was, for a time, a good deal dejected, and disturbed by the prostrate condition of his party,—which, in private, he imputed to their own imprudence. The author of the “Rejected Addresses,” alluding to his demeanour about this time, says, “I never saw him apparently vexed, except at a *fête champêtre* given by Richard Wilson, at Fulham. I there walked with him round the grounds, when he spoke very peevishly about Lord Grenville and the recently shattered Whig Administration, exclaiming, several times—‘A rope of sand!’”

The only other occasion on which he addressed the House of Lords, before the end of the session, was in support of the “Scotch Judicature Bill,” when he rendered himself ridiculous by one of those displays of egotism and vanity which so much detracted from his dignity and usefulness, and made hearers believe it impossible that he should be the same man who had so nobly and successfully defended public liberty. Trial by jury being about to be introduced into Scotland, he took occasion to remind the House of his devoted attachment to this institution. The Duke of Cumberland, now King of Hanover, excusably joined in a titter occasioned by the repetition of what their Lordships had so often heard—when the indignant orator thus burst forth :

“I observe an illustrious personage on the benches opposite smile, and I must be bold to tell him that such a smile is inconsistent with the decorum with which this House is in the habit of hearing every noble lord express his sentiments. But it is particularly indecorous and indecent in that illustrious personage to smile at a paucyric upon the ‘trial by jury.’ ‘Trial by jury’ placed the present royal family on the throne of England, and ‘trial by jury’ has preserved our most gracious Sovereign, that illustrious person’s father, throughout a long and glorious reign. ‘Trial by jury’ is the best security for the rights of your Lordships, and of every order in the state : and I can never cease to feel that ‘trial by jury’ has enabled me to address your Lordships upon equal terms with the highest man among you.”

Soon after, the Parliament elected under Whig rule was dissolved, although the House of Commons had come to no resolution hostile to the present Government, except against

their friends. They are very sanguine as to carrying, by a considerable majority, Mr. Brand’s motion

“*Et c.*” The debate was a very extraordinary one. Perceval declared that the King had no advisers in the measure. While we

were locked up in the lobby, we supposed ourselves the majority by about 20, but there was a majority of 32 against us.”—*Life of Romilly*, ii. 195

” 9 Parl. Deb. 487.

the grant to Mr. Perceval of the Duchy of Lancaster for life; but it was thought right to take full advantage of the "No Popery" cry which now resounded through the length and breadth of the land. In vain did the Whig candidates boast of the good measures of the late Ministry, and complain of the unconstitutional manner in which it had been dismissed. The maxim that "the King can do no wrong," framed to establish the responsibility of his advisers, the nation translated into a declaration "that the King is infallible, and his will is not to be questioned." Accordingly, a Parliament was chosen in which the Whigs were not much more numerous than when they were vainly struggling against the ascendancy of Pitt.

On the first day of the session, however, an amendment to the Address was moved in both Houses,—when Erskine made a last effort to persuade the Peers that the personal inclinations of the Sovereign ought not to be regarded as law under a Constitutional Monarchy, and strongly inveighed against the late dissolution, saying, that "Ministers should yield to Parliaments, and not Parliaments to Ministers."—But he found himself in a minority of 67 to 160,* and there being a majority of near 200† in favour of Ministers in the House of Commons, he abandoned systematic opposition in despair.

For many years he only came forward on rare occasions, to record his dissent to measures which he considered particularly objectionable. He violently condemned the expedition to Copenhagen,‡ and supported a motion for restoring the Danish fleet.¶ He took an active part in censuring the famous "Orders in Council," respecting neutral navigation,—truly foretelling, that they would lead to a war with America, and that, being found injurious to our own commerce, they must be abandoned.¶

In opposing the infamous and ludicrous attempt to conquer France by prohibiting the exportation of Jesuits' Feb. 1808. bark to the continent of Europe, he for a time revived his ancient fame. I can speak with confidence of the great talent as well as zeal he displayed on this occasion. For I then appeared for the first time at the bar of the House of Lords, soon after the commencement of my professional career.—Firmin de Tastet, a wealthy Spanish merchant, had

* 9 Parl. Deb. 591.

† 11. 653.

‡ 10 Parl. Deb. 351.

§ 10 Parl. Deb. 653.

¶ 11. 929, 975, 1149, 1245, 1321.

imported several large cargoes of Jesuits' bark from South America into England, with the view of forwarding them to different continental ports in the usual course of his trade; and he petitioned against the bill, on the ground of the heavy loss it would inflict upon him.—I was his counsel, and I well recollect my consternation when the great doors of the House were suddenly thrown open, and I was marched up to the bar by the Black Rod, who thrice stopped me to make my *congers*. The House was very crowded, and in a state of great excitement.—Erskine, seeing my trepidation, most kindly came to the bar, shook hands with me, and did every thing in his power to encourage me. I stated my case with some boldness, and got through pretty well with the examination of my witnesses,—he putting questions to them to bring out the facts more prominently than I could do from my inexperience. I then moved, that, on account of the complication of the evidence and the numerous arithmetical calculations into which the witnesses had entered, I should be allowed till the following day to sum up; and he warmly supported my application—pointing out from his own practice the difficulty of counsel doing justice without preparation in such a case, and urging that the fate of one of the first merchants in the world might depend upon their Lordships understanding it. The Government resisting the application, he divided the House; but there was a considerable majority against us.—I replied with some energy; and, throwing figures and calculations overboard, I not only dwelt upon the grievous private injury which the bill would inflict on my client, but—contrary to the caution I had received from the Lord Chancellor—I ventured to glance at its general inexpediency, and the discredit which it would bring upon the British name.—A very animated debate then took place on the question, whether the bill should be read a third time? No notion can be formed of Erskine's admirable speech from the miserable report of it to be found in print. Even now I have a lively recollection of his impassioned tones, of his piercing eye, of his noble action, as witnessed on this occasion; but I cannot attempt to follow the course of his reasoning, or to describe the manner in which he conjured the right reverend prelates, as ministers of Him who went about healing the sick, to save us from the curse that must follow such unchristian conduct. The bill being carried by a majority of 110 to 44, he embodied his objections to it in the following protest:—

"1. Because the Jesuits' bark, the exportation of which is prohibited by this bill, has been found by long experience to be a specific for many dangerous diseases which war has a tendency to spread and exasperate; and because to employ, as an engine of war, privation of the only remedy for some of the greatest sufferings which war is capable of inflicting, is manifestly repugnant to the principles of the Christian religion, contrary to humanity, and not justified by the usage of civilised nations. 2. Because the means to which recourse has been hitherto had in war, have no analogy to the barbarous enactment of this bill, inasmuch as it is not even contended that the privation to be created by it has any tendency whatever to self-defence, or to compel the enemy to the restoration of peace—the only legitimate objects by which the infliction of the calamities of war can in any case be justified. 3. Because the only possible answer to these objections is, that the bill will not produce the privation which is held forth as its ostensible object, inasmuch as the Jesuits' bark may be exported under licences from the Crown; but such an answer would only prove the bill to be wholly useless to its purposes, whilst it would still leave in full operation the odious precedent of having resorted in cold blood, for the mere speculative sale of our manufactures, even to the possible infliction of miseries not to be vindicated but by the view of self-preservation, or in the extremities of war, directed to that justifiable object. 4. Because, as no scarcity of the Jesuits' bark appears to exist in France, and as, in the contrary case, no possible exertion on the part of this country could effectually prevent its importation into the numerous ports under the dominion and control of the French government, the bill is grossly vicious in principle, whilst it is absolutely nugatory in practice, and is therefore, in every point of view, disgraceful and absurd. 5. Because, if it were even just, expedient, or practicable to force the importation of our manufactures upon our enemies by withholding the Jesuits' bark, but upon condition of their permitting such importation, that principle should have been distinctly expressed in the bill, and the conditions specifically declared in it, instead of vesting in the Crown an arbitrary discretion to dispense with the prohibition by licences—a power destructive of the Equality of British commerce, and dangerous to the freedom of the British Constitution.

"ERSKINE." c

He next opposed unsuccessfully a bill very wantonly and offensively brought forward by Sir Vicary Gibbs, to enable the Attorney-General to arrest and hold to bail any persons against whom he has filed an *ex officio* information for a libel. It was aimed against proprietors and printers of newspapers who attacked the Government; but there never had been an instance of defendants so prosecuted not duly pleading and taking their trial; and if they actually were to fly the coun-

try, nothing could more effectually answer the object of prosecuting them. Erskine in vain showed that the bill was wholly unnecessary, and was a dangerous innovation, as it proceeded from a systematic desire to put down the discussion of public grievances. I doubt whether Sir Vicary ever did more than hang it in *terrorem* over the heads of the old ladies against whom he filed his informations, because they happened to have annuities payable out of newspapers in consequence of family settlements; and although it still disgraces the Statute Book, certainly no Attorney-General since his time has ever thought of putting it in force.

When Erskine gave his opinion on military matters, although he had been a soldier in his youth, he by no means did himself so much credit. He considered it impossible that we should be able to defend Portugal, much less drive the French out of Spain. When thanks were moved to the army after the battle of Corunna, while he praised the gallantry of Sir John Moore and the other British officers who had gloriously fallen there, he said, "but for their immortal renown, it would have been better for them—certainly much better for their country—to have shot them on the parade of St. James's Park."^d He afterwards asserted, "the men who were sent to Spain were sent there to be massacred, without any prospect of their ever being able to do any good."^e Nay, he held the same language after the battle of Talavera had been won, saying "he would put an hypothetical case: suppose that the result of fighting a battle should be, although a victory was claimed, the failure of the main purposes of the campaign,—would it not be essential to have information with respect to the reasons for adopting that measure, before they voted thanks for a victory which had produced only disastrous consequences?"^f And afterwards, when the plan of establishing our ascendancy in the Peninsula was discussed, he said "it might as well, in fact, be expected to accomplish this by sending over the woolsack, with my noble and learned friend upon it."^g

But, leaving such vagaries, he almost entirely confined himself for some years to a subject which he made peculiarly his own, and with which his name will ever continue to be associated. Thus he began his speech in moving the second reading of his bill "For the Prevention of Cruelty to Animals:"—

MAY 15,
1809.

^d 12 Parl. Deb. 136.

^e 14 Ib. 169.

^f 15 Ib. 107.

^g 15 Parl. Deb. 524.

"I am now to propose to the humane consideration of the House a subject which has long occupied my attention, and which I own to your Lordships is very near my heart. It would be a painful and disgusting detail if I were to endeavour to bring before you the almost innumerable instances of cruelty to animals which are daily occurring in this country, and which, unfortunately, only gather strength by any efforts of humanity in individuals to repress them without the aid of the law. These unmanly and disgusting outrages are most frequently perpetrated by the basest and most worthless—incapable, for the most part, of any reproof which can reach the mind, and who know no more of the law than that it suffers them to indulge their savage disposition with impunity. Nothing is more notorious than that it is not only useless, but dangerous to poor suffering animals, for a humane man to reprove their oppressors, or to threaten them with punishment. The general answer, with the addition of bitter oaths and increased cruelty, is, '*What is that to you?*'—If the offender be a servant, he curses you, and asks '*if you are his master?*'—and if he be a master, he tells you that '*the animal is his own.*' The validity of this most infamous and stupid defence arises from that defect in the law which I seek to remedy. Animals are considered as *property* only. To destroy or to abuse them, from malice to the proprietor, or with an intention injurious to his interest in them, is criminal,—but the animals themselves are without protection—the law regards them not—they have no rights. I am to ask your Lordships, in the name of that God who gave to man his dominion over the lower world, to acknowledge and recognise that dominion to be a MORAL TRUST."—After enlarging on this topic with great beauty, and fully explaining the preamble and enactments of the bill, he observed: "As to the tendency of barbarous sports, of any description whatsoever, to nourish the national characteristic of manliness and courage,—the only shadow of argument I ever heard on such occasions,—all I can say is this—that from the mercenary battles of the lowest of beasts—human boxers—up to those of the highest and noblest that are tormented by Man for his degrading pastime, I enter this public protest against such reasoning. I never knew a man remarkable for heroic bearing whose very aspect was not lighted up by gentleness and humanity, nor a *kill-and-eat-him* countenance that did not cover the heart of a bully or a poltroon."

When the bill was in committee, he said,—

"During the thirty years of my parliamentary life, I have never till now proposed any alteration in the law. I possess no ostentatious wish to couple a statute with my name, and, on the present occasion, your Lordships will, I trust, give me credit for being actuated by a better motive. I venture to say firmly to your Lordships, that 'the bill I now propose to you, if it shall receive the sanction of Parliament, will

not only be an honour to the country, but an era in the history of the world."

The bill passed the Lords after a slight opposition from Lord Ellenborough, but was thrown out in the Commons by a speech of Windham's, who thus sneered at its author:—

"We ought to be cautious how we begin 'new eras of legislation, and ought to have a reasonable distrust of the founders of 'eras,' lest they should be a little led away by an object of such splendid ambition, and be thinking more of themselves than of the credit of the laws or the interest of the community. 'To be the first who has stood up as the champion of the 'rights of brutes' is, indeed, a marked distinction. But I wish to know why, to tarnish his glory, he has excluded from protection animals not tamed or reclaimed; for one would have supposed that their 'rights' were more unqualified and more unquestionable. It is said they are *feræ naturæ*—a learned distinction, but never before so whimsically applied. Again, we are told, if never treated with cruelty, they would become too numerous and overrun the earth; but how does this apply to a class of animals with which we are accustomed to make very free—the fishes? If it is to be a misdemeanor to beat a donkey, surely to crimp a cod, or to skin an eel, ought to be felony without benefit of clergy. What a pretty figure shall we make in the world, if, in one column of a newspaper, we read a string of commitments under the 'Cruelty to Animals Act,' and, in another, the account of a grand *Battue*—attended by princes of the blood, and ministers of state—or of 'a glorious run, five horses only being in at the death, of fifty who started,—several having died in the field!' If the horses be within the purview of the statute, the hounds are not, and, at all events, the 'rights of the fox' are violated with impunity!"

Erskine again introduced his bill, with some amendments, in the next session, and it underwent much discussion, but finding that he was not likely to carry it through the House of Commons, he withdrew it after it had passed the committee.^k When Windham was gone, and the passion for bull-baiting and boxing had subsided, it was introduced there by Martin of Galway, and finally, in Erskine's lifetime, received the sanction of the Legislature.^m Independently of "the rights of brutes," which it may be difficult to protect by human laws, although the subject of religious and moral obligation, I think there can be no doubt that any malicious and wanton cruelty to animals in public outrages the feelings,—has a tendency to injure the moral character

ⁱ 17 Parl. Hist. 1207.

^k 16 Parl. Deb. 726, 845, 881, 883, 1017.

^m See stat. 3 Geo. 4, c. 71; stat. 5 & 6 Wm. 4, c. 59.

of those who witness it,—and may therefore be treated as a crime.

When the dispute arose upon the commitment of Sir Francis Burdett to the Tower, Erskine, yielding to the sin which most easily beset him,—the love of popularity,—took a violent part against the House of Commons, and maintained that all questions of privilege ought to be decided by the courts of common law. He dwelt upon the danger of either House of Parliament exceeding its jurisdiction,—forgetting the danger, which has since been exemplified, of judges, with the best intentions in the world, attempting to deprive the two Houses of Parliament of powers “essential to the due and effectual exercise and discharge of their functions and duties, and to the promotion of wise legislation.”^a In a very unnecessary ebullition of bravery, after referring to the fact of Chief Justice Pemberton being sent to Newgate by the House of Commons, he exclaimed, “If a similar attack were made upon my noble and learned friend who sits next me [Lord Ellenborough], for the exercise of his legal jurisdiction, I would resist the usurpation with my strength, and bones, and blood.”^b Nay, he went so far as to lay down for law, contrary to repeated decisions of all the Courts in Westminster Hall, that a warrant of commitment by either House of Parliament must upon the face of it specify the particular facts alleged to constitute a breach of privilege, for the consideration of the Common-law Judges upon a writ of habeas corpus.^c It certainly would be desirable, for public information, that such warrants were so drawn; but the pretension of judges to review the cause of commitment renders this course impossible, without subjecting all parliamentary privilege to their summary caprice,—and the established sufficiency of a warrant of commitment, generally alleging a breach of privilege, is the only practical security retained by the two Houses for the undisturbed enjoyment of the powers which they have hitherto exercised, and which the public good requires that they should continue to exercise. Although Erskine had nobly repelled attacks on public liberty, I cannot hold him up as an accomplished jurist or a great authority on constitutional law.

I am happy to say that he gradually took a more liberal view of the claims of the Roman Catholics: he was not yet prepared to put them, as to civil rights, on an equal footing with Protestants, but he supported Lord Donoughmore’s motion for

^a See 3 Vict. c. 9.

^b 16 Parl. Deb. 851.

^c 17 Ib. 588, 598.

referring their petitions to a committee, saying, "The question now to be decided is—not whether the Roman Catholic religion be good or evil as a religion, but whether, so long as it exists among so large a proportion of the population of Ireland, we are not called upon so to deal with its professors as to make them safe and sound members of the British empire."¹

I could have wished much, for his fame, that he had been more active in leading or assisting the efforts which now began strenuously to be made to soften the atrocious severity of our penal code: but I can only find that he once offered a few observations, and voted in a small minority, in favour of the bill for taking away capital punishment from the offence of stealing in a shop to the value of *five shillings*.²

The Whigs were again tantalised by the seemingly certain prospect of a speedy accession to power. In the end of the year 1810, the mental illness of King George III. was so aggravated that it could not be concealed from the public, and the functions of the Executive Government could not be carried on without the intervention of Parliament. The belief became general, which was verified by the event, that his Majesty was now permanently disabled from personally performing the duties of his high office. Notwithstanding the democratic doctrine adopted in 1788, that on such an emergency the two Houses of Parliament were entitled to elect any individual at their pleasure as Regent, and to confer on, or withhold from him, any of the prerogatives of the Crown, it was easily foreseen that the Heir Apparent would soon be to all practical purposes upon the throne. After a little vacillation, in consequence of a supposed revolutionary movement in the country at the commencement of the war, he had remained true to the political party to which he attached himself in his youth; and at this very time he was living on terms of the most familiar intimacy with the leaders of it—talking to them of the distribution of the great offices of state among them as soon as they were his to bestow. Erskine, in particular, was in high favour with him; and when they met, his Royal Highness, without loss of dignity, laying aside court etiquette, addressed him by the endearing appellation of TOM. If the ex-Chancellor again desired the Great Seal, it seemed within his reach.

Upon the question as to the mode of proceeding to supply

¹ 17 Parl. Deb. 395.

² Ib. 198.

the deficiency in the exercise of the royal functions, he laid down what I consider the true doctrine—that the two Houses, as the states of the realm, should find and declare the fact of the incapacity of the Sovereign, and that then the Heir Apparent, by right of birth, should carry on the government while that incapacity continues. He said, “Not having been in Parliament in the year 1788, I had not then an opportunity publicly to declare my sentiments upon the subject, but I considered it most anxiously and deliberately, and I came to the conclusion that the power of election, arrogated to themselves by the two Houses of Parliament, is wholly inconsistent with the principles of hereditary monarchy, and may lead to all the horrors of civil war. There is no analogy between this case and the Revolution of 1688; for then the throne was vacant, and the two Houses were driven by necessity to fill it by calling in a new dynasty. But the throne is not now vacant, and the two Houses have no jurisdiction to assume or to change the royal authority.”* This short statement seems absolutely conclusive against the proceeding by bill; for that proceeding cannot take place without the direct assumption of the royal authority, however strongly this usurpation may be disavowed. The Great Seal is not the organ of the two Houses, but of the King only. The Great Seal is used in judicial proceedings by virtue of the King’s general authority; but for such solemn acts of state as opening Parliament, or giving the royal assent to bills, it is the symbol of the King’s mind and intention, signified by the indispensable sign-manual. To employ the Great Seal for such purposes by the two Houses of Parliament is, therefore, a manifest violation of the Constitution. The proposed plan assumes the power of the two Houses to exercise the royal authority during the King’s incapacity—by which evil men may introduce confusion, not likely to terminate with one generation. This is no visionary fancy; the Constitution has fallen a sacrifice to the principle of separating the political power from the natural person of the Sovereign, and may again lead to the levy of armies in his name to fight against him.

When the restrictions to be put upon the Regent came to be discussed, Erskine strenuously opposed them, contending that they were wholly unnecessary for the purpose of ensuring his Majesty’s resumption of his royal authority on his recovery; and he denounced the prohibitions against promotions in the

peerage as particularly disrespectful to that House, because they conveyed an insinuation "that their Lordships were ready to barter their allegiance against additional balls or strawberry-leaves for their coronets."

On the clause respecting the patronage of the household, the Government was beaten by a small majority in the committee, where proxies could not be used; and proxies being called on the "Report" to reverse this decision, the question arose whether, under the circumstances, the right of voting by proxy at all existed. Erskine contended that their Lordships were not sitting as a House of Parliament under the sanction of the King, so that the custom of voting by proxy did not apply; and, at any rate, that the custom, being always under the control of the House, ought not to be permitted on this occasion; "for what could be more calculated to bring it into utter contempt, and to cover it with the derision of the public, than to see a most momentous question decided by a majority of the Lords present, at the end of long arguments, and in ten minutes afterwards to see that decision reversed by the very same assembly without an additional living man coming into the House, by the proxies of absent Lords, who, had they been present and heard the arguments, would very probably have confirmed the decision which they were supposed to condemn?" The Earl of Liverpool was so much ashamed, or so much afraid, of an adverse division, that he withdrew his call for proxies; and the clause, as amended in the committee, stood part of the bill.¹

Another violent altercation took place on Lord King's motion, that Lord Eldon should be excluded from being a member of the Queen's Council to assist her in taking care of the King's person,—on the ground that he had frequently obtained the King's signature for commissions when his Majesty, on account of mental disease, was under the care of physicians, who declared that he was incompetent to act. Erskine did not speak on this very delicate topic, but he voted for the motion, and joined in a strong protest against its rejection,² setting forth the instances in which this practice had been followed, and concluding with the allegation, that "John Lord Eldon, having so conducted himself, is not a person to whom the sacred trust of acting as one of her Majesty's Council in the care of his Majesty's person, and in the discharge of the other

¹ 18 Parl. Hist. 786, 805, 976.

² 18 Parl. Deb. 1066.

most important duties committed to the said Council, can with propriety or safety be committed."

The Regency Act having received the royal assent by means of the "phantom," or sham commission ordered by the two Houses of Parliament, in the King's name, the Whigs expected to be in office next morning; but, instead of a summons to attend the Regent at Carlton House, they received certain intelligence that his Royal Highness had written a letter to Mr. Perceval, intimating that "he felt it incumbent upon him, in the present juncture, not to remove from their stations those whom he found there as his Majesty's official servants." An attempt was made to soften this disappointment, by holding out a hope, which proved to be illusory, that, as soon as the period of restrictions had expired, and the Regent could freely follow his own inclination, he would get rid of the Ministers with whom he had been constantly at enmity, and by whom he considered himself personally ill used, for the purpose of forming a close and permanent connection with his early friends. Erskine was not deluded by any such prospects, and soon perceived that his old patron had now contracted a mortal aversion to the Whigs and their principles, and was as firmly resolved as ever his father had been to prevent them from obtaining power.

CHAPTER CLXXXVII.

CONTINUATION OF THE LIFE OF LORD ERSKINE TILL THE GENERAL
PEACE IN 1815.

FROM this time our ex-Chancellor seems to have renounced all thoughts of official employment, and to have become rather indifferent about the estimation in which he was held as a public man. He had paid very little attention to the judicial business of the House of Lords since his resignation, and now he was seldom present at its political discussions. Giving up all professional reading, and without any serious occupation, he led the idle life of a man of wit and pleasure about town, spreading hilarity and mirth wherever he appeared,—seemingly cheerful and happy himself, but spending

many listless and melancholy hours in private,—sometimes mixing in scenes which his friends heard of with pain, and which brought upon him distress as well as discredit.

He as yet retained his beautiful villa at Hampstead, near Caen Wood, called “Evergreen Hall.” Here he gave gay parties, of which he was the life by his good-humour and whimsicalities. We have a lively description of one of these from Sir Samuel Romilly, to whose gravity they were not quite suitable:—

“I dined to-day at Lord Erskine’s. It was what might be called a great Opposition dinner: the party consisted of the Duke of Norfolk, Lord Grenville, Lord Grey, Lord Holland, Lord Ellenborough, Lord Lauderdale, Lord Henry Petty, Thomas Grenville, Pigott, Adam, Edward Morris (Erskine’s son-in-law), and myself. This was the whole company, with the addition of one person; but that one, the man most unfit to be invited to such a party that could have been found, if such a man had been anxiously looked for. It was no other than Mr. Pinkney, the American Minister—this at a time when the Opposition are accused of favouring America to the injury of their own country, and when Erskine himself is charged with being particularly devoted to the Americans. These are topics which are every day insisted on with the utmost malevolence in all the Ministerial newspapers, and particularly in Cobbett. If, however, the most malignant enemies of Erskine had been present, they would have admitted that nothing could be more innocent than the conversation which passed. Politics were hardly mentioned, and Mr. Pinkney’s presence evidently imposed a restraint upon every body. Among the light and trifling topics of conversation after dinner, it may be worth while to mention one, as it strongly characterises Lord Erskine. He has always expressed and felt a great sympathy for animals. He has talked for years of a bill he was to bring into Parliament to prevent cruelty towards them. He has always had several favourite animals to whom he has been much attached, and of whom all his acquaintance have a number of anecdotes to relate:—a favourite dog which he used to bring, when he was at the Bar, to all his consultations,—another favourite dog, which, at the time when he was Lord Chancellor, he himself rescued in the street from some boys who were about to kill it under pretence of its being mad,—a favourite goose, which followed him wherever he walked about his grounds,—a favourite macaw,—and other dumb favourites without number. He told us now that he had got two favourite leeches. He had been bled by them last autumn when he had been taken dangerously ill at Portsmouth; they had saved his life, and he had brought them with him to town,—had ever since kept them in a glass,—had himself every day given them fresh water, and had formed a friendship with them. He said he was sure they both knew him, and were grateful to him. He had given them different names, HOME and CLINE (the names of two celebrated sur-

geons), their dispositions being quite different. After a good deal of conversation about them, he went himself, brought them out of his library, and placed them in their glass upon the table. It is impossible, however, without the vivacity, the tones, the details, and the gestures of Lord Erskine, to give an adequate idea of this singular scene.*

The ex-Chancellor used (but I believe only when he expected his friends to detect him in the act) to take a spade in his hand and pretend to work in his kitchen garden. On such occasions he would say, "Here I am, enjoying my '*otium cum diggin a taity*.'"—The garden was under the care of a Scotch gardener, who once coming to complain to him, as of grievance to be remedied, that the drought had burnt up all the vegetables and was killing the shrubs, he said to him, "Well, John, all that I can do for you is, to order the hay to be cut down to-morrow morning; and if that does not bring rain, nothing will."—He encouraged the jokes of others when even a little at his expense. Boasting of his fine flock of Southdowns, he joined in the laugh when Colman exclaimed, "I perceive your Lordship has still an eye to the *Woolsack*."

He afterwards parted with his property at Hampstead, and bought an estate in Sussex, which turned out an unfortunate speculation, for it produced nothing but stunted birch-trees, and was found irreclaimable. To lessen his loss, he set up a manufactory of brooms. One of the men he employed to sell them about the country being taken before a magistrate for doing so without a licence, contrary to the "*Hawkers and Pedlars Act*," he went in person to defend him, and contended there was a clause to meet this very case. Being asked which it was, he answered, "The *sweeping* clause, your worship—which is further fortified by a proviso, that '*nothing herein contained shall prevent or be construed to prevent any proprietor of land from vending the produce thereof in any manner that to him shall seem fit*.'"

With a view to improve this property, he began to study farming, and put himself under the celebrated agriculturist Coke of Norfolk, afterwards Earl of Leicester, observing that "having been instructed by *Coke* at Westminster, he was now to be instructed by *Coke*, as great a man in his way, at *Holkham*." But the master boasted little of the pupil, relating this anecdote of his progress:—"Coming to a finely cultivated field of wheat, the first specimen he had seen of drill husbandry,

Erskine exclaimed in a delighted tone, 'What a beautiful piece of *lavender*!!!' I have been favoured by a valued friend with the following reminiscence of one of the Holkham "sheep-shearings" at which he was present:—

"On the morning following my arrival at Holkham, happening to be rather late, I found that Mr. Coke, with a large party, had been examining a ram that had been brought out of Sussex by Lord Erskine, as a specimen of his excellent breed of sheep. Our worthy host, however, and the Norfolk farmers did not seem to estimate his merits very highly, for they left him without expressing much commendation. I found Lord Erskine still lingering about his favourite animal. He was engaged in a dissertation, or rather lecture, upon a subject which at that time engaged, and still does engage, the attention of the agricultural world, viz., the advantage of thick or thin sowing. His arguments were rather of a theological than of a practical character. 'The great God of nature,' he said, 'did not create the wire-worm or the caterpillar or the turnip-fly in vain: they have a right to their sustenance as well as man. I therefore highly commend the practice of my excellent friend Mr. Coke, who sows turnip-seed in sufficient quantity to feed the fly during the summer, as well as his own cattle in the winter.' In pursuing this argument, he had placed himself upon his sheep's back, where I found him surrounded by twenty or thirty farmers. The animal at first bore his Lordship's weight, a light one, with great patience, but at length, growing weary, it made a sudden move, the result of which was to throw the ex-Chancellor sprawling in the dust. He got up, and, deliberately wiping the dirt from his clothes, exclaimed, 'I vow to God I thought I was on the wool-sack! and give me leave to observe that this is not the first time that I have been unceremoniously kicked off it.' We then walked out together, and he eloquently expatiated upon all that he beheld; but that which more particularly excited his surprise and admiration was a monstrous heap of oyster-shells. At first he could only account for this by the large and well-known hospitality exercised at Holkham. Upon further inquiry he found that oyster-shells, when pounded and burnt, had lately been introduced as a valuable manure. 'Now,' said Lord Erskine, 'is the time to do justice to the members of the maligned and much injured profession to which I have so many years belonged. You have doubtless all heard the story of the advocate who swallows the oyster himself, and hands over an empty shell to each of his clients. In doing so it is perfectly clear that he was acting a most disinterested part, for while he contented himself with the poor cold fish for his own share, he gave to those for whom he was engaged the means of improv-

I once puzzled a legal friend of mine, who said he should certainly know *oats* from *wheat* if he saw them growing together, by asking him if he should know *barley* from

malt if he saw them growing together? He said he thought he should, but he was not quite so sure.

ing their lands, and of acquiring unlimited wealth.—With jokes like these he proceeded to amuse the company, and succeeded in converting a grave didactic meeting into a scene of universal merriment and fun."

By way of lounge, he would not unfrequently come to Westminster Hall, to chat with his old friends—ever expressing regret that he had left the Bar. Once he jumped on the table in the robing-room, and said, in a pitiful tone, "Here is the first day of term, and I have not a single brief in my bag."—I remember, on another occasion, when a group of us gathered round him to hear his stories, we flattered him much by asking him to introduce into his "Cruelty to Animals Bill" a clause "for the protection of JUNIORS"—telling him truly that we had suffered much bad treatment since he had left us.—Remaining a Benchler of Lincoln's Inn, he often dined in the Hall, and was much more light-hearted than when he sat there with the Great Seal before him.—Yet, when pinched by returning poverty, he would occasionally think with regret of the very short period he had enjoyed his lucrative office. Captain Parry, the famous navigator, being asked at a dinner party, what he and his crew had lived upon when they were frozen up in the Polar Sea, said, "they lived upon *Seals*." "And very good living too," exclaimed Erskine, "if you keep them long enough."

Soon after his resignation, he was invited to a fête at Oatlands, where the Duchess of York had upon the lawn a number of rare animals, and, among others, a remarkable monkey with a long white hairy mantle flowing gracefully over his head and shoulders. Erskine was late in appearing; but, at last, while the Prince of Wales, the Duke of York, and other royal personages, were standing in a group near the entrance to the court-yard, he arrived in a very mean-looking one-horse chaise. He immediately alighted; but, instead of paying his duty to the "Royalties" before him, he suddenly stepped up to the monkey; and, taking off his hat in a very dignified manner, and making three *congrées*, he addressed the animal in these words, amidst the hearty laugh of all present: "Sir, I sincerely wish you joy—*You wear your wig for life.*"*

He used to dine occasionally at the "Stakes"—saying, that

* On the authority of a gentleman who was present.—The Oatlands Monkey was a specimen of the *Simia Rosalia*,—"small red feet—hair very fine, soft, long, of bright yellow colour, resembling yellow silk—

round the face hair much longer than in other parts, so as to form a large mane like that of a lion—native of Guiana—the *Mari-kina* of Buffon."

he had once consulted a Bishop, whether it was lawful for him, an ex-Chancellor, to do so, and received this oracular answer, "*Cut them,*" which he thought himself bound to take *in mitiori sensu*.

He frequently presided at the ceremony of laying the foundation stone of buildings for literary institutions, and at the anniversary dinners of societies of all sorts—when he used to make very amusing speeches, which the audience were not sorry to find often embellished with anecdotes of himself. I remember being present at an address from him to the members of the Law Life Insurance Society, at the Freemasons' Tavern, when he gave us this account of one of his earliest opinions:—"A case was laid before me by my veteran friend the Duke of Queensberry—better known as 'old Q.'—as to whether he could sue a tradesman for a breach of contract about the painting of his house? and all the evidence he had to adduce was detailed—which was wholly insufficient; whereupon I wrote, 'I am of opinion, that this action will *not* lie, unless the witnesses *do*.'"

He was at all fashionable breakfasts and balls of peculiar *éclat*; and whereas formerly he had risen at five in the morning to sit down to his briefs, before the ladies of his family had returned from such parties, it was now sometimes later before he went to bed,—and at any hour next day he might have adopted the excuse of Thomson the poet, "Why should I get up when I have nothing to do?"

"Idleness of mind," says Burton, in his *ANATOMY OF MELANCHOLY*, "is the nurse of naughtiness, the step-mother of discipline, the cushion upon which the devil reposes, and a great cause of melancholy." Erskine's present mode of life, I am afraid, was no exception to the general rule—but his frailties were never obtruded on the world, and I am not bound to pry into them. When they were alluded to,—as he still displayed so many fine qualities, mankind were disposed to repeat the words of Lord Kenyon, applied to him in former times, "Spots on the sun!—spots on the sun!" although, as it has been observed in no unfriendly tone, "as the lustre of the luminary became more dim, the spots did not contract in their dimensions."^a

Erskine now sought to relieve his *ennui*, and to recover his consequence, by becoming an author, and he published an octavo volume under the title of "*ARMATA*." This is a close

^a Lord Brougham's *Statesmen*, i. 244.

imitation of "Utopia" and "Gulliver's Travels," but is very inferior to those immortal productions, though by no means without cleverness. "Morvin," the narrator, is supposed to have been shipwrecked, and, getting somehow into another planet, to have reached a very distant region called "ARMATA" (England), with a neighbouring island under the same government, called "PATRICIA" (Ireland)—having for its great rival in power another state, called "CAPETIA" (France). There are two Parts—one historical and political, the other describing manners and customs. I will copy a few extracts from it, to convey a notion of its contents, as the book is now very scarce. In an attempt to show that if the French Revolution had been treated differently by foreign nations, its excesses would not have been provoked, and war might have been avoided, he thus introduces the great patriot of "ARMATA"—who is no other than Charles James Fox :

"My confidence in this opinion," says the personage who is giving us an insight into Armatan politics, "is the more unshaken from the recollection that I held it, at any time, in common with a man whom to have known as I did would have repaid all the toils and perils you have undergone. I look upon you, indeed, as a benighted traveller, to have been cast upon our shores after this great light was set. Never was a being gifted with an understanding so perfect. He was never known to omit any thing which, in the slightest degree, could affect the matter to be considered, nor to confound things at all distinguishable, however apparently the same; and his conclusions were always so luminous and convincing, that you might as firmly depend upon them as when substances in nature lie before you in the palpable forms assigned to them from the foundation of the world. Such were his qualifications for the office of a statesman: and his profound knowledge, always under the guidance of the sublime simplicity of his heart, softening without unnerving the giant strength of his intellect, gave a character to his eloquence which I shall not attempt to describe, knowing nothing by which it may be compared. Had the counsels of this great man been accepted,—much more if he himself had lived to carry them into execution with his eminent companions,—I must ever think that the peace of our world might have been preserved."

Thus the traveller, giving an account of the Armatans, shadows forth Burke, and the state prosecutions launched most oppressively by the two Houses of Parliament in the year 1794, when he himself acquired such glory:—

"Alas! the very voice which had breathed so happily the gentle accents of peace, was now heard louder than the trumpet of war to collect our world to battle,—spreading throughout the land an universal

Panic, until the public councils complained of sedition. Instead of leaving it to the Sovereign, in the ordinary course of law, to bring the suspected to trial, they exalted it into treason of the highest order, and the evidence was published by their command. It was, no doubt, within their jurisdiction, and it was their highest duty to protect the state,—to proclaim a conspiracy if they believed it existed, and to direct prosecutions against the offenders; but it was repugnant to the very elements of the Armatan constitution to involve individuals in the accusations, and to circulate amongst the people the accusing testimonies, stamped with their supreme authority, when inferior tribunals were afterwards to judge them. In any other country the consequences to the accused must have been *fatal*: but there is a talisman in Armata, which, while it is preserved inviolate, will make her immortal!—HER COURTS OF JUSTICE SPOKE ALOUD TO HER PARLIAMENT: THUS FAR SHALT THOU GO, AND NO FARTHER."

I ought to mention that, from modesty, not a word is introduced respecting the great ADVOCATE in whose hands the "talisman" was so powerful.

He made ample amends in a subsequent edition for the slight the author had cast upon Wellington's early career. Morvin, in alluding to a fight which we easily discover to be WATERLOO, says:—

"The hardy sons of Patricia were in all our ranks, and her soil produced the immortal hero who conducted the battle. No victory in human annals ever produced results so sudden and extraordinary. The adversary, who had built a thousand vessels to convey his armies to our shores, and who was then erecting a column, *even within our view*, to be crowned with his colossal statue, pointing at us with his finger for his own, now fled when no one was pursuing, and gave himself up as a prisoner to the commander of a single ship."

I am sorry to say that Morvin's political economy is exceedingly bad, although supposed to be very sound by the author, and meant to guide us in England. He strongly reprobates the importation of foreign wool or foreign corn, as well as of any foreign manufactured goods; he is not contented with *protection*, but would have *bounties*; and he scouts the doctrine that population can ever be excessive, thus concluding "Be assured that the very being of your country, *above all at this moment*, depends upon your making your own soil support your most extended population; and that to consider population as an evil is to be wiser than God, who commanded man to *increase and multiply*." Erskine, however, knew as much about these matters as Sheridan, Grey, or Fox

himself. Of that generation of statesmen, Pitt alone had studied Adam Smith.

I am surprised to find the following recommendation of wearing official costume in general society from Erskine, who, above all his contemporaries, appeared to despise formality and humbug :—

“We have,” said Morvin, “robes of magistracy even in the lowest of our Courts; and not only our Judges, but all their inferior officers and attendants, have grave and suitable habits of distinction, but which are cast off the moment the business of our councils and courts is over; when the highest of them are to be seen shouldered and jostled in the crowd, with the pickpockets whose imprisonments have just expired, and with the culprits they have amerced. This is by no means an ancient custom amongst us, but one of late years, most ignorantly and thoughtlessly introduced. Supreme Judges, and, indeed, magistrates of every description,—above all, when coming immediately and publicly from their tribunals;—should have some suitable distinctions, to point out their stations, and to continue, by habits of association, the reverence inspired by their dignified appearance when administering the government or the laws.” “Then,” adds the traveller in his own person, “I could not help smiling to myself at the ludicrous idea of all Palace Yard in an uproar at the astonishing sight of our Judges coming out of Westminster Hall in such shabby frocks and brown scratches, as would infallibly subject them to be rejected as bail in their own Courts, even for 10*l.*, though they were to swear themselves black in the face.”

Thus he boldly censures the abolition of ancient sinecure offices :—

“To say they are useless because they have no useful duties, may be a false conclusion. A critic of this description might reason in the same manner with Nature, and accuse her of the most senseless profusion, for dressing out a cock pheasant and a peacock quite differently from a jackdaw or a crow. How unmercifully those poor birds would be plucked! Not a feather would be left in their *sinecure* tails!”

He pathetically laments the loss of his “Cruelty to Animals Bill :”—

“It went down almost by acclamation to the other council for its assent, where its success would have been equally certain if the resolutions of public assemblies were invariably the result of general convictions; but as the bravest armies have been put to flight by the panic of a single soldier, so the wisest councils, by the influence of individual error, may be turned out of the course of wisdom.” He then goes on to have his revenge of Windham, on whom he charges “*monomania, or insanity quoad hoc.*”

He concludes the book in a strain of philosophical piety, by which I believe he was systematically animated, notwithstanding the occasional levity of his conversation or his conduct. After calculating that, at the swiftest rate of travelling then known, it would take ninety-one millions of years to reach the nearest of the fixed stars, he thus proceeds:—

“When I reflect that God has given to inferior animals no instincts nor faculties that are not immediately subservient to the ends and purposes of their beings, I cannot but conclude that the reason and faculties of man were bestowed upon the same principle, and are connected with his superior nature. When I find him, therefore, endowed with powers to carry as it were the line and rule to the most distant worlds, I consider it as conclusive evidence of a future and more exalted destination, because I cannot believe that the Creator of the universe would depart from all the analogies of the lower creation in the formation of his highest creature, by gifting him with a capacity not only utterly useless, but destructive of his contentment and happiness, if his existence were to terminate in the grave.”

“*Armata*” came out first anonymously, but the author avowed himself to his friends, and was well satisfied with his performance. He accompanied a presentation copy with the following note to Colman:—

“DEAR SIR,

“As men of real genius are always the most indulgent critics, I send you my little romance without fear. The two parts are very different. The first was intended to be a kind of bolus to swallow my old politics in, which were too long past to be a political pamphlet; and having gone out of this our world without going to that from whose bourne no traveller returns, I was obliged to come back again to town, describing it, however, as if in the world I had just left. I should like to know whether you think my remarks upon the stage are correct.

“Yours most faithfully,

“ERSKINE.”

Dr. Parr pronounced the romance to be most valuable, and Erskine's name carried it through several editions: but, as the story is devoid of novelty or interest, and the great bulk of the observations are without much wit or point, it soon fell into neglect.

The year 1812 seemed propitious to the prospects of the Whigs, and Erskine was often congratulated on his certain and speedy return to office. At the expiration of the restrictions imposed upon the exercise of the royal

authority by the Regency Act, the Regent, through the Duke of York, professed a desire that "some of those persons with whom the early habits of his public life were formed would strengthen his hands and constitute a part of his Government;" but it was found that this was only to be under the ascendancy of his new friends, Lord Eldon and Mr. Perceval,—and Lords Grey and Grenville declared the impossibility of their uniting with the present Government, as their differences of opinion were too important to admit of such an union; and in particular, the first advice they should tender to his Royal Highness would be to repeal those civil disabilities under which so large a portion of his Majesty's subjects still laboured on account of their religious opinions. In a debate in the House of Lords on this correspondence, Erskine said:—

"Happy should I have been, and ever shall be, to manifest my attachment to the Prince. I stand in a peculiar relation to his Royal Highness; I have been in his service for thirty years, and have received many marks of kindness and confidence from him; and as I consider steadiness in friendship to be the source of all honour and usefulness, public and private, I am anxious to explain why it is not in my power, consistently with the attachment I must ever retain for the Prince, or the duty I owe to my country, to give the smallest support to the present Administration." After taking a very able view of their policy, domestic and foreign, he observed, that "if a cabinet were to be formed by the proposed union, like *plus* and *minus* in equations they would destroy one another;—one half determined upon a perpetual exclusion of the Catholics—the other half convinced that to refuse the claims of the Catholics was to dissolve the Empire;—one half resolved to keep up the Orders in Council,—the other half thinking that the Orders in Council were unjust to neutral nations, and ruinous to our own commerce and manufactures. I deeply lament the present inauspicious state of affairs; but as there is no unmixed good in this world, there is seldom evil unmixed with good, and some advantage may arise out of the present conjuncture; it will furnish an unanswerable, and I hope a final, refutation of one of the falsest and most dangerous opinions which can be propagated among the lower orders of the people,—that their superiors are all alike—all equally corrupt—all looking only to office by the sacrifice of all principle. The public may now be convinced, that what has been too frequently and invidiously stigmatised as *party*, may be better described as an honourable and useful union of men, of great talents and influence, esteeming one another in private life, and pledged to their country and to each other by similar political principles. I am persuaded, that a firm phalanx of such men, who have acquired general confidence, which they can only hope to preserve by sacrificing their own advancement to the interests of the people, is one of the most important safeguards of the British constitution." In a subsequent part of the debate, he said, by way of

explanation, "I should have approved of all that was proposed by the Cabinet of which I was a member, and much more than from circumstances they could venture to propose, had I not thought that, from the King's prejudices, this course would dissolve the Administration. [*'Hear! hear!'* from the other side of the House.] I am glad of that cheer—I laid a trap for it,—as it most strikingly marks the general disposition to impute to public men the love of office as the ruling principle of their conduct. Surely this error is now refuted."

Upon a division, however, the Government had a majority of 165 to 93.^b

Three months afterwards arose another Ministerial crisis, on the assassination of Mr. Perceval, when Erskine again behaved with spirit and disinterestedness. The Whig leaders were offered the power of forming an entirely new Cabinet, on a condition to which it was known they could not accede,—that the officers of the household should not be changed. Although this novel and unconstitutional arrangement was defended by the Earl of Moira, and even by Sheridan, Erskine stoutly asserted that "Lords Grey and Grenville were bound to see that they had all the facilities and securities which were usual upon changes of Administration, to enable them to carry on the functions of Government with effect."^c

During the five following years, Erskine never opened his lips in Parliament. Lord Liverpool, much ridiculed when a youth for his proposed "March to Paris," and certainly one of the dullest of men, was now Prime Minister, and under him our military operations on the Continent of Europe were more brilliant than under any of his predecessors since the time of Godolphin. Opposition almost entirely ceased, and all orders and parties joined in the effort to maintain our independence against the ambition of Napoleon.

During this long interval, Erskine devoted himself almost entirely to the enjoyments of private society; but of the space which he still occupied in the eyes of mankind, we may judge from the following entries respecting him in the Diary of Lord Byron:—"On Tuesday dined with Rogers, Madame de Stael, Mackintosh, Sheridan, Erskine, Payne Knight, and others. Sheridan told a very good story of himself and Madame Recamier's handkerchief. Erskine a few stories of himself only." . . . "Lord Erskine called and gave me his favourite pamphlet, with a marginal note and

^a D. 1807—
1815.

^b 22 Parl. Deb. 62, 69, 89.

^c 23 Parl. Deb. 346, 596.

corrections in his handwriting.—Sent it to be bound superbly, and shall treasure it" . . . "Lord Erskine called to-day. He means to carry out his productions on the war, or rather wars; to the present day. I trust that he will. Must send to Mr. Murray to get the binding of my copy of his pamphlet finished, as Lord Erskine has promised me to correct it and add marginal notes to it. Any thing in his handwriting will be a treasure, which will gather compound interest from years. Lord Erskine thinks the Ministers must be in peril of going out. So much the better for him."^d

The ex-Chancellor's abstinence from mixing in political debates at such a season might be proper; but his neglect of law reform cannot be palliated. Romilly, in his Diary, says; under date 20th June, 1814, "Lord Erskine told me on Saturday that he should certainly bring on my bill, which he has taken charge of, on this day. He had not, however, given any notice of his intention, or required that the Lords should be summoned; and though he had formerly presided in the House as Chancellor for above a year, he was ignorant, till he learned from me with surprise and evident mortification, that a previous notice was, according to constant usage, necessary before he could move the second reading of any bill." And again, under date 5th March, 1815: "I called this morning on Lord Grenville to endeavour to prevail upon him to take the charge, in the House of Lords, of my bill for subjecting freehold estates to the payment of simple contract debts: for if it continues this year, as it was the last, in the hands of Lord Erskine, who does not understand the subject, and is incapable of answering any objections that are made to it, there is no chance of its being carried."^e

I cannot, however, join in the censure of the ex-Chancellor's political conduct at this period. He had, excusably, although

^d This copy, now belonging to my friend Mr. Murray, of Albemarle Street, lies before me. It contains the following memorandum, in the handwriting of Lord Erskine:—

"I have no other copy of the pamphlet but this spurious edition—full of gross errors. After Debrett had become a bankrupt, having published forty-eight editions, the present edition appears to have been published, with a print which I am sanguine enough to hope was intended as a caricature." K."

There are added the two following memo-

randa in the handwriting of Lord Byron:—

"The correction and erasures in this volume are made by Lord Erskine's own hand, previous to his honouring me with the present of this volume.

"Oct. 12th, 1814.

B."

"This copy was given to me by Lord Erskine in November (I think), 1813.

"Oct. 15th, 1814.

B."

The corrections are few and immaterial.

* Life, iii. 141, 156.

* The print, although a likeness, is certainly by no means flattering.

not, magnanimously, accepted an unsolicited and unexpected offer, made to him out of personal regard by the Regent, of a "green ribbon;" and I am afraid he was rather too much gratified in wearing it, and showing in public the star of the order of the Thistle on his breast. But, while the affair was creditable to the one party, I do not think that it ought to derogate from our respect for the other. At a recent public dinner, Erskine, in commenting on the arbitrary policy of the existing Government, had entered into a warm defence of "those principles which had placed the House of Brunswick on the throne of Great Britain;" and his Royal Highness, on reading a report of this speech in the newspapers, had observed, "They are principles which would unseat any family from any throne."—However, as, upon Napoleon's escape from Elba, the new Knight concurred, with almost the whole of his party, in supporting the preparations for renewing the war, he is thus disparagingly noticed by Romilly: "Erskine, who has lately accepted a green ribbon from the Regent, voted with the Ministers, but did not speak. One might have expected, however, that he would have explained how it happened that his opinions now were so different from those which he entertained during the last war, and which he published in a pamphlet that had great celebrity. This pamphlet I remember his carrying with him to Paris after the Peace of Amiens, and giving to a number of persons there, telling every one of them that there had been still later editions than that which he gave them, which was the twenty-sixth, or some other great number, for I do not recollect exactly which it was." But, whatever doubts might be entertained of the necessity for carrying on the war with the French Republic, almost all were convinced that peace with the Emperor was now impossible.

Having published a pamphlet in vindication of the Whigs, he was answered in "A Letter from an Elector of Westminster," who thus assailed him:—

"It was on the 9th of November, 1794, that I harnessed myself to the carriage of the Hon. Thomas Erskine, when that distinguished barrister was drawn through the streets of the metropolis amidst the blessings and the tears of a people whom he had saved from the gripe of oppression. . . . No time, no, nor your Lordship's subsequent conduct,

should likewise be recollected that forty years ago, as related by Lord Commissioner Adam, *Ante*, Vol. VIII., p. 253.

shall obliterate your share in the glorious struggle that gave a breathing-time to the last defenders of their country. The congratulations belong to the rescued prisoner, but the praise was all your own; you were the saviour of the innocent, the restorer of liberty, the champion of law, of justice, and of truth. Dazzled by your eloquence—animated by your courage—sympathising with your success—your fellow-countrymen sunk under their admiration, their gratitude, and their joy, and bowed down before the idol of their hearts. My Lord, you should have died when you descended from the triumph of that memorable day. The timely end, which is the sole protection against the reverses of fortune, would have preserved you from that more lamentable change which could have been occasioned only by yourself. Had your life closed with the procession, you would have gone down to posterity pure and entire. As it is, your admirers have nothing left for it but to separate your early career from your present state, and to look at the record of your former exploits as belonging more to history than to you."

He then enumerates specifically the imputed misdeeds down to the acceptance of the "green ribbon." Erskine published an answer,—from which I copy his characteristic defence upon the last accusation:—

"To this vulgar jest I reply, that if the author holds in republican contempt the most ancient distinctions of a monarchical state, he is undoubtedly well justified in considering the green ribbon as a laughable thing; but he fails altogether when his wit is not pointed at that *knighthood*, but *personally against me*. It is well known that the order of the Thistle is a distinction for the nobility of Scotland; and that, ever since the Union, it has been the custom to invest with it two English Peers. Now, as the author repeatedly taunts me with my STUART ancestors, he, perhaps, has inadvertently let down the force of the sarcasm he aimed at: because I am of the family of the King who instituted the order, and had been for many years in the service of the present Sovereign, it seems difficult to find fault, either with the Prince Regent for bestowing it on me, or to make out my disqualification to receive it; but if the insinuation was pointed to convey that the accepting it was a departure from my principles or friendships, I hold the slander in the utmost contempt, because my whole life is its unanswerable refutation. I stood towards the Prince Regent in a relation quite different from that of my friends in Parliament, having been in his Royal Highness's service from the first formation of his establishment. The appointment of those Ministers who still continue in office might for a season produce a corresponding coolness among public men, but which could not, with any propriety, involve *me*, from my particular situation, and from many personal obligations. I was bound to fulfil *all my duties*. I remained, and still remain, faithful to the Prince of Wales, but faithful alike to my principles and friends,—defying any man, as I now do, to charge me with the slightest deviation from the most perfect integrity and consistency as a member of Parliament for

nearly forty years. I value the distinction alluded to, because it was a fit one of my rank and birth; and I value it the more, because it was given to me by the Prince as a mark of his personal regard, and without any wish or expectation that it could at all affect my public conduct. So much for the 'Green Ribbon,'—which I have only at all adverted to because I will not suffer even a squib to come across the unsullied path of my public life without publicly treading it out."

A collection being published about this time of the speeches of his great leader, to whom he had ever been faithful, and to whose memory he was most affectionately attached, he thus addressed Mr. Wright, the editor:—

"The expression of my regret that the utmost care and attention could give but a very faint representation of their merit is, however, no preface to my wishing they should be suppressed. Far from it. It would be an absurd objection to a bust of Demosthenes or Cicero, that the vigour of the eye was lost in the marble, and the lips cold and silent, which were the sources of his fame. It would be as strange a criticism in a cabinet of natural history, that rare animals, however ingeniously preserved, were but feeble representations of them when living,—that, though we observed the form of a lion, we could not hear him roar, nor see him stalking over the desert in the tremendous majesty of his dominion,—or that, though we could not but admire the form and plumage of an eagle, we should account it nothing, because his vast wings were not in motion, nor his prey flying dismayed under their shadow. Eloquence, which consists more in the dexterous structure of periods, and in the powers of harmony of delivery, than in the extraordinary vigour of the understanding, may be compared to a human body, not so much surpassing the dimensions of ordinary nature, as remarkable for the symmetry and beauty of its parts. If the short-hand writer, like the statuary or painter, has made no memorial of such an orator, little is left to distinguish him;—but in the most imperfect reliques of Fox's speeches the bones of a giant are to be discovered. I cannot but look back as to the highest and most honourable circumstance of my life, that I thought and acted with Mr. Fox through so considerable a part of his time, and that now, in my retirement from the world (for so I have considered it, since my professional course has been closed for ever), I have had the opportunity of thus publicly expressing my veneration for his memory. When I followed him to the grave, I was unable, from sorrow, to support with decent firmness the high place which my situation at that period assigned me in the funeral procession; and even now, when thus engaged in the review of his splendid and useful career, I cannot but feel the most affectionate and painful regret,—seeking a kind of consolation, with his numerous friends, from his being in a manner still living in the representatives of his family."

* This is a well-merited compliment to the genius and amiable qualities of his friend Lord Holland,—alas! no more,—from whom

I myself received more personal kindness than from any political leader with whom I have ever been associated.

Although Erskine at this period of his life never mingled in the political discussions of the House of Lords, a peerage case came on in which he took a deep interest, and on which he bestowed immense labour—the claim of Lieutenant-Colonel Knollys to the earldom of Banbury.^a He has been highly extolled by those who have hitherto written any account of his life, for his efforts on this occasion; but, although the zeal and the eloquence which he displayed are much to be admired, I think he took an entirely erroneous view of the subject, trying without any sufficient reason to set at variance legal presumption and physical fact.—William Knollys, the first Earl of Banbury, when an old man, married the Lady Elizabeth Howard, a girl of nineteen, and she had for her lover the young Lord Vaux. While often in the company of her husband she twice became pregnant, but concealed her pregnancy from him, and she bore two sons during his lifetime, but concealed their birth and their existence from him. Very soon after his death she married Lord Vaux, and the boys taking the name of Vaux were long treated as Lord Vaux's children. Shortly before the old peer died, King Charles I. prevailed upon the House of Lords to allow him precedence for his life over Earls created before him, “considering how old a man this lord is, and childless.” His will made no mention of any son; and an inquisition taken after his death, respecting the lands of which he was seised, found that he died without heirs male of his body. But Edward, the elder son, afterwards claiming to be Earl of Banbury, it was found under a commission from the Court of Wards that he was the son and heir of the late Earl, and having assumed the title, he was killed abroad during his minority. Nicholas, the younger son, then called himself, and was generally called by others, Earl of Banbury. He was allowed to sit under that title in the Convention Parliament, which assembled in 1660, but he was not summoned to the next Parliament. A committee of privileges reported that in the eye of the law he was the son of the late Earl—but still a writ was refused to him on the opinion of the Attorney-General, and he died without being allowed to take his seat.

^a I am in possession of his MSS. connected with this case, which show, in a very striking manner, the industry he could still, when necessary, call into action. These contain full notes of all the arguments at the Bar—

an abstract of all the facts of the case—a collection of all the authorities upon legitimacy—his long speech in support of the claim—and his elaborate protest against the decision.

His son Charles was likewise excluded. He assumed the title, however, and, being indicted for murder, petitioned the Lords that he might be tried as a Peer, but they decided against him. He then pleaded his peerage in abatement, and the decision of the House of Lords being replied, Holt, C. J., to the great wrath of the Peers, with perfect propriety allowed the plea, as the decision of the Peers was not founded on any reference by the Crown. His descendants continued to call themselves Earls of Banbury, but were not summoned to the House of Lords, and did not again take any proceeding to establish their right till the petition presented by the present claimant. Erskine, being his private friend and thoroughly convinced that his claim was well-founded in law, delivered a very animated speech in the Committee of Privileges, to which it was referred:—

“I admit,” said he, “that the claimant labours under great disadvantages. The facts, in his case, are extraordinary, and the grave has long since been closed over all the individuals whose evidence could afford him any assistance. His claim is almost as old as the patent of his ancestor, and successive generations have passed away without any recognition of it by this House. Yet time would be the instrument of injustice, if it operated to raise any legal bar to the claimant’s right. Questions of peerage are not fettered by the rules of law that prescribe the limitation of actions, and it is one of the brightest privileges of our order that we transmit to our descendants a title to the honours we have inherited or earned, which is incapable either of alienation or surrender. . . . The rule relating to the bastardy of children born in wedlock may be reduced to a single point—‘the presumption in favour of the legitimacy of the child must stand, until the contrary be proved by the *impossibility* of the husband being the father, and this impossibility must arise either from his physical inability or from non-access.’ It has been urged, that strong improbability is sufficient; but this I confidently deny. We do not sit here to balance improbabilities on such a topic as this. If access can be proved, the inference from it is irresistible,—whatever moral probability there may exist of the adulterer being the father, whatever suspicions may arise from the conduct of the wife, or the situation of the family,—the issue must be legitimate. Such is the law of the land. Women are not shut up here as in the Eastern world, and the presumption of their virtue is inseparable from their liberty. If the presumption were once overthrown, the field would be laid open to unlimited inquiries into the privacy of domestic life; no man’s legitimacy would be secure, and the law would be accessory to the perpetration of every species of imposture and iniquity. A fixed rule may give rise to occasional deviations from justice; but these amount to nothing more than the price which every member of the community may be called upon to pay for the advantage of an enlightened

code. No laws can be framed sufficiently comprehensive to embrace the infinite varieties of human action, and the labours of the lawgiver must be confined to the development of those principles which constitute the support and security of society. He views man with reference to the general good, and that alone. He legislates for men in general,—not for particular cases. No one can doubt that the interests of society are best consulted by making a question of such frequent occurrence as *legitimacy* to rest on a limited number of distinct facts—easy to be proved, but not to be counterfeited—instead of leaving it to be the result of inference from a series of indefinite circumstances, separately trifling, and only of importance collectively, from the object to which they are applied. Marriage and cohabitation afford us a more sure solution of the question of legitimacy than we could arrive at by any reasoning on the conduct of the husband and wife.—As to the advanced age of the husband in this case, there is no statute of limitations on the powers and faculties of man. Instances of robust longevity might be cited still more extraordinary. Sir Stephen Fox married at the age of seventy-seven, and had four children: the first child was born when the father was seventy-eight; the second and third were twins in the following year, and the fourth was born when the father was eighty-one. The Earl of Ilchester and Lord Holland can vouch for the accuracy of this statement, and I believe their genealogy has stood hitherto unquestioned. Parr became a father when his first-born son was of a more advanced age than the old Earl of Banbury. Moreover, his Lordship seems to have kept all his faculties both of body and mind in full exercise. Though eighty-four or eighty-five years of age, not only does it appear, from the evidence of one of the witnesses, that he went out hawking up to his death, but the Journals of this House furnish us with the best evidence of his attention to more important matters. Then, my Lords, why is the bounty of Lord Vaux to his step-son to be ascribed to another motive than what belonged to such a relationship? Why is Nicholas to be supposed to have repudiated the title of Banbury, because in his childhood he had been called by the name of Vaux? These are weak arms to encounter a presumption so strong as that which exists in favour of legitimacy. The same rights have descended to the present petitioner, and I trust they will be recognised by your Lordships.”

But it is quite clear, both from reason and authority, that although the husband and wife may have had an opportunity of being in the society of each other about the time to which the origin of the child is to be ascribed,—without proof of the impossibility of the husband being the father, there may be circumstances to lead to the conclusion that they did not live together as husband and wife, and that the paramour of the wife may be considered the father of the child. In the present case the concealment of the birth of the two boys

from the Earl of Banbury, and the treatment of them as adulterous bastards, both by their mother and by Lord Vaux, afforded abundant ground for these inferences.—Lord Eldon, Lord Redesdale, and Lord Ellenborough accordingly gave a strong opinion against the claim. But such an impression was made by the plausible arguments in support of it, that upon a division in the committee it was only negatived by a majority of 21 to 13.¹ Erskine in a great rage, drew up a strong protest, which was signed by three royal Dukes and seven other peers,—and, writing about it to a friend, said: —“The Protest gives our opponents every fact and all arguments, but they are without a single voice in Westminster Hall from one end to the other.” The decision, however, is in conformity to the Code Napoléon, which, on the birth of a child born in wedlock being concealed from the husband, admits proof that it is the child of an adulterer, and having been followed in several cases since, which have been carried by appeal to the House of Lords, it is now universally acquiesced in and considered to be law.^k

CHAPTER CLXXXVIII.

CONTINUATION OF THE LIFE OF LORD ERSKINE TILL THE CONCLUSION OF THE TRIAL OF QUEEN CAROLINE.

THE battle of Waterloo being gained, and Napoleon relegated to St. Helena,—a measure necessary for the repose of the world,—party warfare likewise ceased for a time; but Erskine was at his post when hostilities against the Constitution were renewed, and he opposed with all his ancient vigour the “Seditious Meetings Bill” and the suspen-

¹ It was said that among the twenty-one were four spiritual Peers who had never attended, and ten lay Peers who attended only occasionally; while the whole of the thirteen had attended constantly,—being, I presume, staunch partisans

^k See *Morris v. Davis, Clarke and Finelly's Reports*, vol. v. p. 163, where all the authorities are collected.—The Judges all say, that if it be proved that intercourse did take

place between the husband and wife, whereby the child by possibility may be the child of the husband, it is *presumptio juris et de jure*,—or an invariable rule of law,—that the child is legitimate; but put the supposable, though not probable case, that the husband and wife are *whites*, that the paramour is a *negro*, and that the child is a *mulatto*. *Quid juris?*

sion of the "Habeas Corpus Act," denouncing these measures as sure to excite instead of allay discontent, and as more injurious to the Constitution than any passed in the "Reign of Terror," under Mr. Pitt, when a foreign war, and apparent danger from the spread of French principles, afforded some pretext for such arbitrary legislation.^{June 2, 1818.} In opposing a new "Seditious Meetings Bill," he said,—

"If the authors of this bill had the government of the seasons, they would no doubt set about a reformation upon their own system; and the elements of fire, water, and air would no longer have their immemorial liberties, but would be put under such politic restraints as we are now about to lay upon the civil world. To *Fire* they would say, 'You are an excellent servant, most beneficial when under due discipline and control, but most dangerous when left unrestrained. You may, therefore, continue to blaze in our kitchen and in our chambers, but you shall no longer descend from heaven with electric flashes, destroying our persons and property, and striking even the spires of our churches with sacrilegious violence.' To *Water* they would say, 'We are delighted with your smooth face upon our calm transparent lakes, and with your ripples in our summer streams; but you must no longer come down from the hills in winter torrents, sweeping away our rocks and their masters.' To *Air* they would say, 'Be free as air; it is even a proverb, and we will support it; continue, therefore, to be free as air, at least in our improved sense of freedom. But not more than fifty clouds shall in future come together, without an order from heaven farmers or graziers; and if you shall presume to blight our fruit-trees or destroy our harvests, you shall be driven back to your caverns by a single justice of the peace.'"^a

He likewise brought in a bill to prevent arrest for libel before indictment found against the libeller. This measure he supported in a most elaborate speech, but it was rejected on the second reading by a large majority.^b

In the following stormy session, in which the "Six Acts" were passed—(I hope the last trial of the coercive system for England)—Erskine was active and energetic. A.D. 1819—1820. He began by supporting Lord Grey's amendment to the Address; when he condemned in severe terms "the massacre at Manchester," on the dispersion of Mr. Hunt's meeting there,—and the Secretary of State's letter, approving of the violent conduct of the magistrates and the military without any previous inquiry.^c

^a 35 Parl. Deb. 1213, 1224, 1226; 36 Ib. 981.

^b 57 Geo. 3, c. 3.

^c 38 Parl. Deb.

^d 41 Parl. Deb. 26, 40. An anecdote which he then told, in the vain hope of inducing Lord Eldon to retract an opinion he had uttered, deserves to be recorded in his own

On Lord Lansdowne's motion for a committee to inquire
 Nov. 23, 1879. into the state of the country, Erskine said, with
 much feeling,—

"My Lords, I am now an old man, and have been nearly forty years in Parliament; yet I declare solemnly that I never felt more unqualified regret for any proceeding in it than the rejection of the amendment proposed by my noble friend, and so eloquently pressed upon our attention on the first day of the session. If your Lordships had fortunately adopted it, you could have had nothing farther to consider on this painful subject, and would have escaped the second error of rejecting the proposition of the noble marquess to-night, which I cannot but painfully foresee. You would then have had an unanimous Parliament reprobating all seditious combinations, calling upon both magistrates and people, by the combined authorities of the state, to support the Constitution, and to maintain public order and tranquillity. The amendment asked nothing more than that the people should not be condemned unheard. I have had many more opportunities of knowing the sentiments and feelings of those who are classed as seditious subjects than most of your Lordships can have had, and it is my unalterable belief that a system of alarm, supported by mysterious green bags and the array of special commissions, followed as they have been, and will be, by convictions sufficiently numerous to inspire terror—not sufficiently numerous to enforce subjugation—only exasperate evils, the unfortunate existence of which we all deplore. The present discontent may be silenced by severity, but it will be a dangerous silence." "As to the *Spenceans*," he said, "they cannot be gravely considered objects of criminal justice. Instead of the warrants of magistrates, the certificates of apothecaries may secure their persons if they become dangerous. What other prison, indeed, but a madhouse can be opened to receive

language:—"There shoots across my mind at this moment a striking instance of candour which I have long treasured up in my memory, having a strong interest to remember it, because it was useful to me in the beginning of my professional life. Having been engaged in a cause in which that great Chief Justice [Lord Mansfield] had expressed a strong opinion in favour of my client, the jury found a corresponding verdict; but a rule having been obtained to set it aside for the Judge's misdirection, I had to support his opinion in the Court of King's Bench. When I had finished my argument, he said—I fear with more indulgence than truth—"This case has been remarkably well argued; so well, indeed, that whilst the learned counsel was defending my direction, I began to think I had been in the right, whereas I never was more mistaken in my life." I totally misunderstood the case, and

misdirected the jury; so there must be a new trial, and without costs." Did this lower Lord Mansfield? So far from it, that, having persuaded myself his first opinion was the best, I could not help saying at the time, that if I had not been convinced of his integrity, I should have thought he was practising a fraud to advance his reputation. It was indeed a justice to truth, which weak men are afraid of rendering, and therefore it is so seldom rendered."—"I have myself often been surprised at the pusillanimous anxiety of Judges *in Banc* to support their rulings at *Nisi Prius*. Very different was the conduct of a Judge in recent times, who, after all his brethren on the bench had pronounced judgment in his favour, said, "For the reasons given by my Lord and the rest of the Court, I think that I was entirely wrong, and that there ought to be a new trial!"

persons so completely insane as to entertain an expectation that in such a country as England they can bring its whole surface and property into general division and distribution. By an ordinary display of spirit and resolution, insurrection may be repressed without violating the law or the Constitution. In the riots of 1780, when the mob were preparing to attack the house of Lord Mansfield, I offered to defend it with a small military force; but this offer was unluckily rejected; and afterwards, being in the Temple when the rioters were preparing to force the gate and had fired several times, I went forward to the gate, opened it and showed them a field-piece which I was prepared to discharge in case the attack was persisted in; they were daunted, fell back, and dispersed."

After this somewhat vainglorious narrative of his martial prowess (for which I find no other authority), he entered at great length into the law respecting public meetings; and, having commented upon the late conduct of the Government on this subject, he observed,—

"The threatened severe measures cannot restore confidence, nor bring obedience to Government. *Confide yourselves in the people*, and all murmurs and discontents will be at an end. For my own part, while I have life and strength to raise my voice, I will continue to protest against them *here and every where*. I will not repeat with the same oath what I swore in the House of Commons when similar restrictions were in agitation,^a but I will say firmly, that I was born a free man, and I will not die a slave."

Dissatisfied with himself, he thus apologised for what he considered his want of energy in Parliament as compared with his forensic efforts:—

"I despair altogether of making any impression by any thing I can say—a feeling which disqualifies me from speaking as I ought. I have been accustomed during the greatest part of my life to be animated by the hope and expectation that I might not be speaking in vain,—without which there can be no spirit in discourse. I have often heard it said, and I believe it to be true, that even the most eloquent man living (how then must I be disabled!) and however deeply impressed with his subject, could scarcely find utterance, if he were to be standing up alone, and speaking only against a dead wall."

As the several bills came forward, he strenuously, though ineffectually, opposed them in every stage; but I do not

^a Perhaps he recollected the lines in the "Pursuits of Literature," in which the author of that satire, among things impossible ("Sooper," &c.) says,

"Or Erskine cease from impotent primace,
And his appeals to God,—his prime disgrace."

^b 41 Parl. Deb. 441.

^c *Ib.* 682, 695, 706, 966, 981, 1304, 1307, 1310, 1374.

dwell upon their odious enactments, as in better times they have all been repealed or allowed to expire, and there seems no danger of their ever again being proposed, as, with a much greater disposition to insurrection among the lower orders than then existed, both the great parties in the state have wisely and successfully trusted to a vigorous and judicious use of the ordinary powers of the law.*

While these discussions were pending, George III. expired.

Jan. 29,
1820.

Although the government had still been carried on in his name, he had long ceased to control or to be conscious of public events; and for many years, as if already sleeping in the grave—

. "Nor steel, nor poison,
Malice domestic, foreign levy, nothing
Could touch him further."

The Prince of Wales, under the title of REGENT, had exercised without restriction all the prerogatives of the Crown, and this event merely changed his title to that of George IV., without at all affecting his political position.

But the lady to whom he had given his hand, instead of being an outcast, wandering in foreign countries, sometimes under a feigned name, with hardly pecuniary supplies to defray the expenses of her slender suite, was suddenly Queen of England, entitled by law to share the throne, and to enjoy many powers and privileges suitable to her exalted rank. The new Sovereign was now to pay a dreadful penalty for the manner in which he had insulted and abandoned her. Owing to the levity of her conduct, after the "Letter of Licence" he had given her—whether she had actually broken her marriage vow or not—he could not receive her back as his wife without dishonour, and he could take no proceedings to obtain a divorce from her without exciting the sympathies of all mankind in her favour, and exposing his conduct towards her in a manner which must not only be fatal to his own reputation, but even dangerous to the monarchy. With prudence, an arrangement could perhaps have been made by which she might have remained quietly abroad, her title and an adequate establishment being conceded to her; but he still continued under the rule of his vindictive passions, and, to his lasting

* I allude to the Whig Government in 1819-40, and to the Conservative in 1841-42. I must again express my joy at being at liberty to reprobate the whole system of co-

ercion, without being liable even to the suspicion of trying to throw odium on political opponents.

misfortune, and to the unspeakable prejudice of the nation, his Ministers had not the firmness to resist the mad measures which he suggested against her. Instead of entering into negotiation with her, the first rash proceeding of the new reign was illegally to exclude her name from the Liturgy, as if already convicted of some great crime, although the meanest subject in the realm was entitled to the presumption of innocence till proved to be guilty. In spite of the threats held out to her, she boldly came to this country to claim her rights,—and in an evil hour Lord Liverpool and Lord Eldon yielded to the desire of her husband, that she should be brought to a public trial for adultery. This did not, as in the time of Henry VIII., take the shape of an indictment for high treason, as not only were her alleged offences committed beyond the seas, but it was not supposed that, under the circumstances, even if she had been convicted, the public would have endured to see her share the fate of Anne Boleyn or Katherine Howard. All that was asked was, that, being declared guilty of adultery, her marriage with his Majesty should be dissolved, and she should be degraded from her state and dignity as Queen. Little did the authors of this measure calculate upon her spirit, or upon the love of justice which ever actuates the inhabitants of Britain.

In the proceedings which followed, Erskine took a very prominent part, and, as it may be considered the close of his public life, I particularly rejoice to think that it was altogether worthy of him. Closely connected as he had been for so many years with the royal prosecutor, who regarded with indignation and abhorrence all opposition to his will on this subject, he exercised an impartial and independent judgment on the merits of the case, and gave his opinion and his vote on every question which arose in it, as if he had been sitting in an ordinary criminal court to decide upon his oath between humble individuals of whose names he had never before heard.

Differing with most of the members of his party, he supported the preliminary motion for submitting to a secret committee the contents of the "green bag" alleged to be sufficient to establish the Queen's guilt, as he thought the King was entitled to a hearing, and this step was analogous to the finding of an indictment by a grand jury." But when, after the report of the committee, the "Bill of Pains and

Penalties" had been presented, and a day was fixed for the second reading, which was to be the commencement of the open trial, he moved that before that day arrived the Queen should be furnished with a list of the witnesses to be produced against her:—

"This proceeding," said he, "is so rare, or rather so anomalous, that no precedent can be found exactly to apply to it; but, in trying to hold the scales of justice equal between the accuser and accused, we may be guided by the spirit of the excellent statute of William III. for the protection of persons charged with high treason—whereby, before the Court is opened, the prisoner is to be furnished with a list of the witnesses, as well as a copy of the indictment. What is the principle of this admirable enactment, conferring a privilege which, in ordinary cases, is denied?—Because the prisoner has not to contend with an equal accuser—and therefore he is covered all over with the armour of the law. Is not the present case of the same description? I do not mean to speak invidiously, but only to point out the situation of the illustrious accused. She has to contend against the Crown and its Ministers, and against all the powers and influences which they possess. In most cases of high treason, the Crown and its Ministers have no personal wrongs to stimulate resentment, nor any other interest in conviction than a general interest in the safety of the state: but here the King himself is the individual charged to be personally wronged, and he may be said to be personally the accuser; the illustrious accused is charged directly in the bill with 'a violation of the duty she owed to his Majesty,'—not as his subject, but in violation of her duty as his wife. This gives an increased force to the great fountain of influence against which she has to contend. Ministers have staked their credit—perhaps their existence—on the success of the course they have recommended or assented to. Let it not, however, be thought that I am charging the Sovereign with making unworthy exertions in the prosecution even of a personal wrong, or his Ministers with a design corruptly to concur in them; but the general presumption of law is entirely founded upon the probable abuse of power in trials for offences against the state, and it is impossible to resist or evade that presumption by arguing against any probable injustice in any particular case, without overthrowing the principle upon which the very law you yourselves have enacted, and have so long abided by, can alone rest for its support. I am well aware that no rules can bind us; but how shall we escape from reproach if we refuse to abide by those rules which we have made binding upon others, the reason for their obligation applying equally, or more forcibly, to ourselves? The generality of the charge also in the preamble of this bill adds most imperiously to the demand of the statute of King William. It is in effect a criminal charge, or it is nothing; yet it in no way resembles any other criminal charge ever exhibited, here or elsewhere, before any court of justice. Above all, it has none of the precision which is the very characteristic of English law. Her Majesty is not charged with any specific act of adultery, but with 'an adul-

terous intercourse'—and this not at any specified time or times, but during her whole absence from England, for six years together—which exposes her to criminating evidence, not only as to acts, but general deportment on every one day or hour of the day throughout all that time;—and this also not confined to any place or places, though it was known she had been travelling in countries remotely distant from each other. I do not mention this as an arraignment of the framers of the bill; it is enough for my view of the subject, that this unparalleled generality of accusation creates an unparalleled difficulty of defence, and renders a list of the witnesses indispensably necessary for the ends of justice. As the adulterous intercourse is alleged to have taken place with one whose station required his constant attendance on her person, through the many countries she visited, it is obviously impossible to anticipate, within whole years, or within thousands of miles, the assaults to be made upon her acts, or even upon her general deportment, which the bill calls upon her to defend. Another analogy between this Bill of Pains and Penalties and a trial for high treason arises from the punishment to be inflicted on conviction. What, my Lords, is death, which in a moment ends us, to the lingering and degrading suffering which the accused may, under our judgment, be sentenced to endure? Born a Princess, of the same illustrious house as the King her consort, and now raised to wear the imperial crown of the greatest nation that ever flourished on the earth,—she may be suddenly cast down to shame and sorrow,—and not only excluded from the society of her exalted kindred, but for ever deprived of the esteem and affection of the whole female world. For my own part, my Lords, this appears to me the heaviest and most intolerable punishment which any human tribunal can inflict. These are my sentiments, and no person surely can reasonably accuse or suspect me of any leaning beyond that of justice to the cause of the illustrious accused: my leanings, if I could suffer their intrusion, would rather draw me to the opposite side. All your Lordships must know that I have spent a great part of my life in the service of the present King. I remember, indeed, so well, and feel so strongly, the warm interest taken by his Majesty in my prosperity and happiness, in some of the most important periods of my progress, that I could not be unjust to him. The habits of my professional life are, I hope, a useful shield against every bias whatsoever. I was bred, in my early youth, in two professions, the characteristic of which is honour. But, after the experience of very many years, I can say with truth, that they cannot stand higher for honour than the profession of the law. Amidst unexampled temptations, which, through human frailty, have produced their victims, the great bulk of the members of it are sound; and the cause is obvious—there is something so beautiful and exalted in the faithful administration of justice, and departure from it is so odious and disgusting, that a perpetual monitor is raised up in the mind against the accesses of corruption. The same protection ought also to apply to us, the highest of the Judges. When this House shall have deliberately and solemnly decided that the restraints imposed by common law and by statute, to

shut out all the approaches to mistake, influence, or corruption, may be set at nought, will not the reserve and caution of all inferior judicatures be impaired?—will not the consequence be the disregard, perhaps, even the repeal, of those admirable and now ancient rules by which, though we have enacted them to govern others, we ourselves have refused to be governed? Believe me, my Lords, I feel upon this part of the subject, so inseparably connected with the illustration of our country, much more than by any words I can express. It may be superstition, perhaps, but I cannot alter the nature and character of my understanding, which, as long as I can look back, has dictated to me, as a comforting truth, that the DIVINE PROVIDENCE singles out particular nations, and perhaps even individual men, to carry on the slow and mysterious system of the world. This island, although placed on the very margin of civilisation, has been its example and its protector,—spreading the blessings of a pure religion and of equal laws to the remotest ends of the earth. My impression, my Lords, has always been, that such an unparalleled dominion is but a more exalted trust, and that, if we fall off from the character which bestowed it, and which fitted us for its fulfilment, we shall be deservedly treated like sentinels who desert, or who sleep upon, their posts. Let us stand by the principles of the Revolution, which so happily made us what we are, and by adhering to which we shall remain what we ought to be. My Lords, I have not made these observations from any desire to disappoint or obstruct the course we are engaged in. When the Court assembles, I will do my duty as if all the angels of heaven were taking notes of whatever passes through my mind on the subject.”

But upon a division there were for the motion only 28,—against it 78.* A few days after, Erskine presented a petition from the Queen, lamenting that the House of Lords had deemed it proper to refuse her a list of the witnesses, and praying for “a specification of the place or places in which the criminal acts charged upon her are alleged to have been committed—without which she could only adequately prepare for her defence by bringing from every place she had visited during the last six years every person who had had the means of observing any part of her conduct.” Although he enforced a motion to this effect by another able speech, on this occasion only eleven Peers voted along with him,—so inauspiciously did the defence of Queen Caroline begin. But these flagrant outrages shocked public feeling, and greatly contributed to rouse that general sympathy in her favour which finally proved irresistible.”

* Hansard, II. 314, 428, 470, 472.

† Ib. 574, 580.

‡ In Scotland a list of the witnesses is given in every criminal case; and in England, in

an action for *crim. con.*, a specification as to times and places is ordered as a matter of course.

When the trial actually began, the eyes of mankind were chiefly turned on Mr. Brougham and Mr. Denman, whose heroic exertions in favour of their oppressed, if not innocent, client shed fresh lustre on English forensic eloquence. Erskine was still distinguished in striving for impartial justice between the parties, by watching the procedure and enforcing the rules of evidence. A discussion arising respecting the mode of swearing the witnesses, he related the following anecdote, to the great amusement of the House :—

“My Lords, when I was counsel in a cause tried in the Court of King’s Bench, an important witness called against me, without describing himself to be of any particular sect, so as to be entitled to indulgence, stated, that from certain ideas in his own mind he could not swear according to the usual form of the oath ; that he would *hold up his hand* and would swear, but that he would not kiss the book. I have no difficulty in saying that I wished very much to get rid of that witness ; and I asked what was his reason for refusing to be sworn in the usual form ? He gave a reason, which seemed to me a very absurd one, ‘*Because it is written in the “Revelations,” that the angel standing on the sea HELD UP HIS HAND.*’ I said, ‘*This does not apply to your case ; for, in the first place, you are no angel ; secondly, you cannot tell how the angel would have sworn if he had stood on dry ground, as you do.*’ Lord Kenyon sent into the Common Pleas, to consult Lord Chief Justice Eyre, who expressed himself of opinion, that although the witness was not of any particular sect, yet if he stated (whether his reason was a good or a bad one) that there was a particular mode of swearing most consistent with his feelings of the obligation of an oath, this mode ought to be adopted. So the witness was sworn in his own fashion. Whether he spoke the truth or not, unfortunately for my client, the witness was believed by the jury, and I felt that the Judge was right, so that there was no ground for moving to set aside the verdict.”^a

A motion being made by the Attorney-General to adjourn the trial, that additional witnesses for the prosecution might have time to arrive, Erskine strenuously resisted it, saying that “no such instance has ever been heard of in any court of justice : to grant such an application would be subversive of all those principles upon which the security and the life of every individual in the kingdom depend. I can believe that your Lordships will agree to it ; but if you do, I shall feel it my duty to record my solemn protest against such a decision. I have attended, with great inconvenience to myself at my advanced age, humbly to assist your Lordships on points of

law or evidence, with the result of my long experience; but if such an application as the present be granted, experience, reasoning, and precedent are no longer of any avail in this House; and it is time for me to retire." The Attorney-General would still have had a large majority in his favour, if he had chosen to persist in his application; but, in consideration of the feeling which was rising out of doors, he prudently withdrew it.^b

The case for the Crown being closed, and an adjournment of three weeks granted to enable her Majesty to prepare for her defence, Erskine made a very anomalous motion, which could only be excused by the peculiarity of the case, "That Mr. Brougham should then be allowed to comment on the King's witnesses, without being required to open the evidence he meant himself to adduce till the House met again." He urged with some effect the disadvantage under which the Queen had laboured for want of a list of the witnesses, and a specification, with time and place, of the charges against her; and he pointed out the unfairness of allowing the evidence for the King, with the opening and summing up of his counsel, to remain so long in the minds of their Lordships and of the public without any answer. But precedent and convenience were on the other side, and, without any obloquy being on this occasion incurred by the House, the motion was properly negatived by a majority of 170 to 49.^c

When all the evidence on both sides had been given, and the speeches at the bar were at last concluded, the important debate on the second reading of the bill was opened by the Lord Chancellor; and Erskine, rising to answer him, said:

"I am now drawing near to the close of a long life, and I must end it as I began it. If you strike out of it, my Lords, some efforts to secure the sacred privilege of impartial trial to the people of this country, and by example to spread it throughout the world, what would be left to me? What else seated me here? What else would there be to distinguish me from the most useless and insignificant among mankind? Nothing—just nothing!—And shall I then consent to this suicide—this worse than suicide of the body, this destruction of what alone can remain to me after death—the good-will of my countrymen?—I DARE NOT DO THAT.—Proceedings of this kind, my Lords, have never been countenanced but in the worst times—and have afterwards not only been reversed, but stigmatised. You were justly reminded at the bar, that

^b 2 Hansard, 1326.

^c 3 Hansard, 40.

they were ordered by succeeding Parliaments to be taken off the file and burned,—‘to the end that the same might no longer be visible in after-ages!’ But upon that I desire to repeat a sentiment which I remember to have expressed in struggling against arbitrary prosecutions in former times—that, instead of directing these records to be burned, they ought rather to have been blazoned in our Parliaments, and in all our tribunals, that, like the characters which appearing on the wall were deciphered by the prophet of God to the Eastern tyrant, they might enlarge and blacken in our sight to terrify us from acts of injustice.”

He was then proceeding to analyse the evidence, when, according to the Parliamentary History, “his voice suddenly ceased. The pause was not particularly noticed at first, as it appeared as if his Lordship were looking over the minutes placed on the table before him; but after some time had elapsed without his resuming his speech, some of the peers became alarmed, and rose from their seats to gather round him. The anxiety of the House was now roused as he fell forward senseless on the table. There were cries of ‘*Open the windows!*’ and ‘*Some water!*’ The Lord Chancellor and the Earl of Liverpool evinced the greatest concern, and proceeded immediately to Lord Erskine’s assistance—along with Earls Grey and Carnarvon, Lord Holland, and Mr. Baron Garrow;—but his speech and colour were gone. They were obliged to carry him into an adjoining room, where medical aid was procured—and the House adjourned.”^d It was generally thought that his end was to resemble that of the great Earl of Chatham, and it certainly would have been well for his reputation if he had now expired in the discharge of his public duty; but it was found that he was suffering a violent temporary cramp in the stomach,—which was completely relieved soon after he had been conveyed home. When intelligence of his safety had been received, the House of Lords reassembled, and Lord Lauderdale continued the debate, contending, to the grief of his old political associates, that the proceeding against the Queen was laudable, and that her guilt was established by the witnesses she herself had called.

The following morning Erskine was so far recovered as to be able to attend in his place; but he did not then attempt to continue his argument, the day being exhausted by two very able speeches, on opposite sides, from Lord Grey and Lord

Liverpool. But again appearing at the next sitting of the House, he resumed his discourse, and said :—

“It is no longer my intention to minutely examine the evidence which I was proceeding to do when attacked by sudden indisposition. I experienced kindness from your Lordships, for which I can never be sufficiently grateful. The admirable speech of my noble friend (Earl Grey), which, at every risk to my health, I yesterday attended to hear, renders such a course unnecessary. The attempt would only unsettle your minds from a conviction which must be impressed upon them by the perspicuity with which he laid the facts before you, and the cogency with which he drew the just inferences from them. I now offer myself to your Lordships rather as a kind of authority from long professional habits, than as a debater—omitting, however, none of the facts supposed to be established by the prosecutor—submitting to you, at the same time, the principles of law by which their truth or falsehood ought to be examined, and the just consequences which follow from such of them as are true. If I were a judge trying an action for adultery under similar circumstances, I think I should thus begin my summing up : ‘Gentlemen of the Jury, I am under no small embarrassment in stating my opinion on the case before you, after having seen your box opened, and the plaintiff in the cause admitted to assist you in the verdict you are to pronounce : but on this I wish to be silent, as it is a matter to which we must now submit, and which is expected to be a valuable improvement of the Constitution. All things arrive but by degrees at perfection, and the prejudices of our ancestors regarding the trial by jury, and the securities provided by them for its independence, are likely to be superseded by this grand discovery of the present age. The defendant certainly has laid before you the most positive evidence of the foulest practices to corrupt the sources of justice.’—My Lords, I find I cannot go on with a supposititious case, nor continue to address you as a jury ; amidst such disgusting instances of fraud and perjury I cannot preserve the coolness which becomes a Judge in a court of law, and I must speak with the freedom which may, in such a case, be not improperly exercised by a member of this House. A dark cloud hangs over the very beginning of the prosecution ; and when we find the accusation to have been hatched in secret, and to have been supported by all the power and influence of foreign governments,—when we see that some of the witnesses have been thrust forward by force, and others by the same force have been kept back—and that the foulest subornation has been detected,—what security could we have had for the truth of any part of the evidence, even if it had not been impeached by the palpable perjuries which have been exposed ? If her Majesty be really guilty, and the prosecution is therefore a just one, no false testimony could exist ; false testimony is never found where a prosecution could be supported by truth, and one detected falsehood takes away from the credulity of testimony brought forward by the same party, although it stands without direct contradiction.” Having commented at consider-

able length on all the principal witnesses, he said: "If I were in the Queen's situation, and I were convicted of adultery by your Lordships on such evidence as this, I would cast your decision in your face, and appeal to the other House of Parliament—to the representatives of the people. The House of Commons cannot pass the bill against their own conviction, and against the national *nolle prosequi* which resounds from every quarter of the island.—Of the legal proof of adultery I cannot be ignorant, having conducted every important case of that kind for thirty years, not only in Westminster Hall, but likewise on the circuits; and I am sure, my Lords, it is impossible to infer that the opinion I have formed on this unfortunate subject has arisen from prejudice or from partial inclination. To the King, who cannot be an indifferent spectator of this proceeding, I have many, many obligations, from the warm interest formerly taken by his Majesty in my advancement and credit, and from my belief that I am still held by him in the same personal regard—though political changes have removed me to a greater distance from his person. If his Majesty should ever be exposed to any injurious treatment, I should be ready to protect him at the peril of my life. I would contribute to his happiness by every sacrifice but that of my duty. My principles I never have deserted, and never will desert."

He is said to have sat down amid loud cheers. The second reading was carried,—but only by a majority of 28.* The bill was farther greatly damaged in the committee from an attack of Erskine, and still more from the diversity of opinion among the bishops, with respect to the canonical doctrine of divorce.

During the short debate on the third reading every one perceived that the measure was "*doomed*;" and Erskine declared that "he should content himself with saying, notwithstanding his great respect for the learning of his noble friend on the woolsack, he continued of the opinion he had formerly given on the effect of the evidence,"—asserting that, "if it were the last word he had to utter in this world, he should pronounce the evidence to be wholly insufficient to support the charge; and he was certain that it would not be held sufficient in any Court in which justice was duly administered." The third reading was carried, but only by a majority of 9.[†]

Lord Liverpool: "I cannot be ignorant of the state of the public feeling, and this House has determined that the bill shall be read a third time by a majority of not more than nine votes. Had the third reading been carried by as considerable a number of Peers as the second, I and my colleagues would have felt it our duty to persevere, and to

send the bill down to the other branch of the Legislature. In the present state of the country, however, and with the difference of sentiment among your Lordships so nearly balanced, we have come to the resolution not to proceed farther with it. I move, therefore, that the farther consideration of the bill be adjourned to this day six months."

Lord Erskine : "I see the fate of this odious measure consummated, and I heartily rejoice at the event. My Lords, I am an old man, and my life, whether it has been for good or for evil, has been passed under the sacred rule of the law. In this moment I feel my strength renovated by that rule being restored. The accursed charge wherewithal we had been menaced has passed over our heads. There is an end of that horrid and portentous exerescence of a new law—retrospective, oppressive, and iniquitous. Our Constitution is once more safe. My heart is too full of the escape we have just experienced to let me do more than try to express my sense of the blessings which we have regained;—but I cannot praise them adequately myself, and I therefore prefer the language of one of the most eloquent writers of any age—Hooker—in his great work on Ecclesiastical Polity : 'Of Law, there can be no less acknowledged, than that her seat is the bosom of God ; her voice, the harmony of the world : all things in heaven and in earth do her homage,—the very least as feeling her care, and the greatest as not exempted from her power :—both angels and men, and creatures of what condition soever,—though each in different sort and manner, yet all with uniform concert,—admiring her as the mother of their peace and joy.'"⁸

This proved to be Erskine's last speech in the House of Lords ; and it certainly was a glorious termination of his parliamentary career.

CHAPTER CLXXXIX.

CONTINUATION OF THE LIFE OF LORD ERSKINE TILL HIS LAST VISIT TO SCOTLAND.

AFTER the Queen's trial Erskine survived nearly three years ;
A.D. 1820— but he very rarely appeared in his place in Parlia-
1833. ment, and he never again addressed the Peers except once or twice, in a tone of conversation, upon a point of order. However, his chivalrous defence of Caroline of Brunswick, in the midst of strong temptations to side with her prose-

cutors, revived his ancient popularity; and, without any fresh exertion, he continued till his death the idol of the multitude, almost as much as he had been when exposing the danger to liberty from "constructive treason" in the defence of Hardy and Horne Tooke. He was loudly cheered as often as he appeared in public; addresses, and gold boxes containing grants of the freedom of corporations, poured in upon him from all parts of the country, and prints and busts of him ornamented every workshop and almost every cottage.

The Scotch, who, notwithstanding their alleged nationality, have always been cautiously slow in doing honour to their eminent men while alive,—although they were proud of the greatest advocate that had ever practised at the English Bar, had never, hitherto, shown him any public mark of distinction—piqued, perhaps, by his seeming neglect of them, for he had not once visited his native land since he first left it in the uniform of a midshipman, more than half a century ago. At last, however, a general desire existed in all ranks beyond the Tweed to see among them, and publicly to honour, the man who had done so much to raise the national fame and to remove the prejudice that they were time-serving politicians—ever ready, for the sake of a job, to support and to praise the minister of the day. Accordingly, he was invited to a public dinner at Edinburgh, and he at once accepted the invitation,—not only from gratified vanity, but from a desire to revisit the scenes of his childhood, and, above all, from a curiosity to cross by a bridge the *loch* or lake which had been the northern boundary of AULD REEKIE, and to admire beyond it the splendid New Town of Edinburgh, where he had been accustomed to shoot wild ducks and snipes.

On his arrival in the Scottish metropolis he eagerly flew to his old haunts, particularly the "flat" in the lofty house inhabited by his father and mother,—the High School where he had smarted under the *tanse*,—and the close in which he believed he had conversed with the ghost of the old family butler. It is said that he was affected by deep melancholy when he found that a second generation of men had nearly passed away since he had run about there a thoughtless, bare-legged, curly-pated stripling, and when he reflected that he must himself soon be spoken of as among those who *had been*. Confessing himself to be *laudator temporis acti*, he would not allow that many of the changes which he saw were improvements; and, recollecting the lustre shed upon

their country by Hume, Robertson, and Adam Smith, he questioned whether Scotland prospered in literature as much as in material wealth. But, after he had passed a few days in the society of FRANCIS JEFFREY, all these moody contemplations were banished from his mind, and he admitted that for valuable knowledge, for intellectual prowess, for refined taste, and for gentle manners, she could still show a man equal to the sons of whom she had been most proud in former days.

Unfortunately, party spirit was dreadfully embittered by the recent trial of the Queen, and now raged in Edinburgh with unexampled fury. For this reason the Tories considered themselves bound to keep aloof from him who had so crossed the wishes of the King, and who had rendered himself so obnoxious at Court. Walter Scott, whose benevolent disposition is to be admired not less than his genius, refused to meet him, and did every thing in his power to disparage him.

Nevertheless, the dinner went off with *éclat* — Jeffrey, Cockburn, Cranstoun, Moncrieff, John Murray, Cunningham, and the other leading Scotch Whigs, assisting to do honour to their illustrious guest. They drank the health of "Plain Thomas Erskine," thinking that such a designation would be more grateful to his feelings than a pompous enumeration of all the titles bestowed upon him and all the offices he had ever filled. His forensic triumphs were duly celebrated, and he was seen to shed tears at allusions to the glories of former days.

His own speech was distinguished by good feeling and good taste. After a few introductory observations, he thus burst forth :

"Breathes there a man with soul so dead
Who never to himself has said,
'This is my own, my native land ;'
Whose heart has ne'er within him burn'd
When home his footsteps he has turn'd
From wandering on a foreign strand ?

The accomplished author well knew that there was no such Scotsman : no, I verily believe there is no such man—the great Author of our nature having implanted in us all an instinctive love of our country. It is this which makes the heart throb and vibrate when the eye recalls even the inanimate scenes of our earliest youth. A waste covered with heath or broom—varied, perhaps, by no higher vegetation than a few stunted trees half dead with age, which are yet remembered—will more affect the imagination of every human being, and will fill him with a far higher delight, than the most splendid scenery which nature assisted

by art ever produced. It is on this account that when I shall visit St. Andrew's, the sequestered place to which my excellent parents retired for so many years, to perform the most sacred duty to their children, I shall feel more than I can express. The lifeless unadorned street, in which a traveller would read his book as he drove through it, will electrify me at every step. I shall gaze upon the old plastered church wall (if it be yet standing) where I used to toil at fives when I was a boy, with more pleasure than St. Peter's at Rome could bestow.^a Gentlemen, these sentiments are quite universal, and they illustrate the Divine Providence in the economy of the world. Some regions are covered with never-fading fruits and flowers, whilst in others vegetation sickens and human life almost goes out; but the instinctive love of country gives, in the estimation of the native, equal lustre and enjoyment to them all. Without this attachment, indeed, there would be no such thing as a people, and we should be still, as in the earliest times, scattered tribes, roaming about in search of spots where acorns are most abundant, or wild animals may be most easily snared. Scotland has ever been proverbially and fondly pre-eminent for this useful, this virtuous attachment; and, however we may be driven to seek our fortunes in the most distant countries, we are still eager to return to our own." After dwelling at considerable length on the glory, martial and literary, which the Scotch had acquired by their love of country, he described his astonishment when he first saw the New Town, "not one stone of which stood upon another when, more than half a century ago, he left Old Edinburgh, which gave him birth." He then, rather in a discursive manner, touched on parliamentary reform and other topics, and concluded by saying, "I shall look back with delight on this day during the remainder of my life—a period which cannot now be much prolonged—and I hope that all who shall ever be descended from me will hold it in perpetual remembrance."^b

Of this dinner we have the following prejudiced account from Mrs. Grant of Laggan, who, though she had now become an Edinburgh Tory, I must admit when she wrote her "Letters from the Mountains," displayed as much talent in describing Highland scenery and Highland manners as Madame de Sévigné in painting the characters and narrating the intrigues of the Court of Louis XIV.:—

^a As a St. Andrew's man, I feel rather hurt at the slighting manner in which he speaks of this seat of learning. The Presbyterian Church, against which he played at fives, is not much to be commended for exterior beauty; but the chapel of St. Salvator's College is a fine specimen of Gothic architecture, and the cathedral in ruins gives striking though melancholy evidence of the ancient splendour of the metropolitan see of Scotland.

^b An Edinburgh correspondent of mine, who was present at this dinner, says: "His Lordship's speech rather caused a feeling of disappointment,—it not having the brilliancy we looked for. I must grant, however, that this may have arisen from our want of good taste as to what a dinner speech should be. It was a light, rambling, and jocular speech—whereas our stock speakers at that time delivered on such occasions regular and formal spoken *Essays*."

"The party have been paying great homage to Lord Erskine, and talking of his return to Scotland after fifty-one years' absence as if a comet had re-appeared. I was asked to meet him last Saturday night, and saw him surrounded by all his satellites. He is a shattered wreck of a man, decked with a diamond star. This decoration he wore, I was told, as a Knight of the Thistle. I always thought of him with the deep straw bonnet which he wore on his Gretna Green expedition.* On Monday the great dinner was given to the ex-Chancellor. Several great persons were expected, but none of them came.^m I observe that these despisers of rank are wonderfully vain of getting a title to grace their meetings."

The illustrious stranger next visited the Court of Justiciary, and appeared there with the star of the order of the Thistle blazing on his breast. The question to be considered was one which had occupied his thoughts much when he was Lord Chancellor—how far judges should interpose to punish in a summary manner printed comments on their own proceedings? A schoolmaster at Glasgow had published in a newspaper a letter disapproving rather freely of a judgment of their Lordships, and the Lord Advocate complained of this as a contempt of Court, for which the culprit ought to be immediately committed to the *Tolbooth*. Mr. Cockburn, the defendant's counsel, argued that he had not exceeded the bounds of legitimate discussion, and that, at any rate, the case ought to be submitted to the determination of a jury, in the ordinary course of law. The Court, however, asserted its jurisdiction, and passed sentence of imprisonment. Lord Erskine decorously concealed all expression of opinion while he remained on the bench, but in private lamented that in Scotland "trial by jury" should be thus superseded."

He afterwards went to the theatre, to see the representation of "The Heart of Midlothian." It is a curious fact, that Walter Scott, who had studiously kept aloof from his society, was present on this occasion. The "Edinburgh Evening Courant," coupling them together, says, "they were loudly cheered on their entrance and departure." It would have been highly becoming if they had been seen arm-in-arm; and it had been impossible to distinguish which of them had the greater share of applause: but I have learned, from a private

* I know nothing of the story here alluded to.

^m I suppose she means some Tory peers. All the truly great men in Edinburgh, except

Walter Scott, were present at the dinner.

ⁿ His own conduct on such occasions had not been quite uniform and consistent. See *ante*, Vol. VIII., p. 385.

source, that, entering and departing at separate times, they sat on opposite sides of the house; and that the ex-Chancellor being the "great lion," much more attention was paid to him. This seems to have sunk very deep into the breast of Walter, who, years after, offered an ingenious solution of it to soothe his own feelings. In his Diary,—after alluding to the old woman at Carlisle, in the year 1745, who, when the Highlanders had taken that city by assault, being afraid of violence to her person, and surprised that none was offered, called out, "When is the ravishing to begin?"—he considers how he should act if any public mark of respect should be shown to him at Paris, and thus proceeds:—"I am sure I shall neither hide myself to avoid applause which probably no one will think of conferring, nor have the meanness to do any thing which can indicate a desire of ravishment. I have seen, when the late Lord Erskine entered the Edinburgh theatre, papers distributed in the boxes to mendicate a round of applause,—the natural reward of a poor player."°

Dining with Lord President Hope, he asked "Whose portrait is that?" looking at a very fine one of the famous lawyer Sir Thomas Hope, the founder of this branch of that distinguished family. The venerable judge answering the question, and adding "You are as nearly and directly descended from him as I am," Erskine exclaimed, with great interest and eagerness, "Ah! I never before knew whence I inherited my law."

Erskine wished much to cross over into Fife, that he might revisit St. Andrew's,—above all, he said, "Lady Buchan's Cove," the "Scores," the "Witch Lake," across which he had often swam—and the room in which he had learned to dance "*shantrews*;" but these scenes he never again beheld, as he was summoned to preside at a great public dinner to be given in England, to celebrate the Queen's acquittal.

Having parted with his numerous friends and admirers in Auld Reekie, he took his passage for London in the smack Favourite, Mark Sanderson, master. It so happened that no vessel could get out of Leith harbour for several days, from want of water on the bar, a circumstance of rare occurrence; and his Lordship, with other disappointed passengers, were seen at tide hours, day by day, on Leith pier, waiting anxiously to be set afloat.

When the Favourite at last cleared the harbour, the

° Life, by Lockhart, vi. 369.

ex-Chancellor's feelings were expressed in the following stanza :—

"Of depth profound, o'erflowing far,
I bless'd the Edinburgh bar;
Whilst, muttering oaths between my teeth,
I curs'd the shallow bar of Leith."

Among the passengers was Mr. Ruthven, the inventor of the celebrated portable printing-press; and a motion was made, and carried unanimously, that this impromptu should forthwith be printed by him. With great glee he proceeded to gratify the company, and speedily executed the task allotted to him, with the addition of these lines by a Leith beauty on board the *Favourite*:

"To Lord Erskine.

"Spare, spare, my Lord, your angry feelings,
Nor leave us thus as if at war;
'Twas only to retain you with us,
We at our harbour placed a bar."

The following tribute, by Lord Erskine, to the nautical skill of Captain Sanderson, was also printed, at the desire of the passengers, by Mr. Ruthven, when the vessel had reached the Nore :—

"On Captain Mark Sanderson, of the Favourite.

"All who in safety seek to be,
Should watch the safest marks at sea;
But, noting sea-marks none by one
Commend me to MARK Sanderson

The dinner to which he had been summoned passed off with great *clat*, and for some time Erskine's popularity was unbounded; but when the rejoicings on account of the Queen's acquittal had passed away he fell back into the ordinary routine of private life, which I am deeply concerned to say was no longer very happy for him, nor very creditable. From his unlucky purchase of land in Sussex, from a bad investment of a large sum in the American funds, and from other acts of imprudence, he became straitened in his circumstances. A gentleman in Derbyshire, from admiration of his public character, had left him by will a considerable landed estate; but the will was defeated by the ignorance of a country attorney, who recommended that the testator should "suffer a recovery" to confirm it, whereby it was

rendered invalid.^p Having parted with his splendid mansion in Lincoln's Inn Fields, as well as his villa at Hampstead, he now lived in a lodging in Arabella Row, Pimlico, moving occasionally to a cottage in Sussex, which he called Buchan Hill: and he had contracted a second marriage—when, how, or with whom, I have not learned upon any authority.

I cannot venture, *ex cathedra*, to say lightly, as Sheridan did,—

"When men like Erskine go astray,
Their stars are more in fault than they."

Considering his years, his station, the feelings of those who looked up to him, and his own lively perception of what was right, his errors are attended with considerable aggravation. "The usual course, on such occasions," is to say: *Taceamus de his*—but History neither asserts her greatest privilege, nor discharges her higher duties, when, dazzled by brilliant genius or astonished by splendid triumphs, or even softened by amiable qualities, she abstains from marking those defects which so often degrade the most sterling worth, and which the talents and the affections that they accompany may sometimes seduce men to imitate.^q However, if I conceal none of his errors which have come to my knowledge, I hope I shall not be generally blamed for not curiously inquiring into them.

It is said, that, to relieve himself from the depression of spirits under which he sometimes laboured, he got into the pernicious habit of eating opium; but I think this statement must be incorrect, for in his correspondence he ever continued to display his wonted playfulness, and when he appeared in society I can testify that he was gay, lively, and debonair.^r

^p He used to give an amusing account of the attorney who came to him after the testator's death to announce the intelligence of his being now owner of a great estate, concluding thus: "And your Lordship need have no doubt as to the validity of the will; for, after it was made, we suffered a recovery to confirm it." This legal absurdity is corrected by a bill I had the honour to introduce into Parliament.

^q Lord Brougham.

^r So early as the year 1766, the "Pursuer of Literature" had impudently written,

"In state affairs all barristers are dull,
And Erskine nods,—the opium in his skull;"

adding, in a note, "Mr. Barrister Erskine is famous for taking opium." But no faith is to be given to this libeller, either when he attacks classes or individuals.

The Right Hon. T. Erskine has since written to me, "This story about the habit of taking opium I believe to be wholly without foundation. His constitutional hilarity and elasticity of spirit never required it. He always had the faculty of throwing off his mind upon entering into society all subjects of care and annoyance with the ease with which a man puts off his great coat upon entering into a house. He required neither stimulus nor anodyne."

Being asked by George Sinclair his opinion respecting a paper currency, he wrote back merrily, that "his complaints now related more to the *quantity* than the *quality* of Bank-notes." We have an agreeable representation of the somewhat eccentric, but ever gentleman-like, manner which still marked him, in the Journal of an American minister:—

"At an evening party at the Duke of Cumberland's a nobleman came up and addressed Mr. Rush abruptly: 'I'm going to bring a Bill into Parliament, making it indictable in any stranger, whether ambassador from a republic, kingdom, or popedom, ever to leave his card without his address upon it. How do you do, Mr. Rush, how do you do? I've been trying to find you every where. I'm Lord Erskine:

Cætera norunt

Susquehanna, Hudson, Connecticut, Mississippi."

The monologue continued as follows:—"I had a letter for you from my brother the Earl of Buchan; but you have made me carry it so long in my pocket that I lost it. It had no secrets,—it was only to congratulate you on your arrival: he was long a correspondent and friend of your father, and wants to transfer his feelings to you,—that's all; so you can write to him as if you had received it." His Lordship added, that 'he had always loved the United States, and hoped to visit them yet, as he was an old sailor and cared nothing for storms.'" In a subsequent entry in the same journal we have the following amusing notice:—"Lord Erskine called upon me according to promise. I pass by all, to come to what he said of Burke. My boys being in the room, he asked if I had found a good school for them? I said they were at present with Mr. Foothead in my neighbourhood. 'You are lucky,' he said, 'if Burke's recommendation goes for any thing, for he thought well of him as a teacher of the classics. What a prodigy Burke was!' he exclaimed. 'He came to see me not long before he died. I then lived on Hampstead Hill. "Come, Erskine," said he, holding out his hand, "let us forget all! I shall soon quit this stage, and wish to die in peace with every body, especially you!" I reciprocated the sentiment, and we took a turn round the grounds. Suddenly he stopped. An extensive prospect broke upon him. He stood wrapt in thought, gazing on the sky as the sun was setting. "Ah, Erskine," he said, pointing towards it, "you cannot spoil that because you cannot reach it,—it would otherwise go,—yes, the firmament itself,—you and your reformers would tear it all down.'" I

* The Right Hon. T. Erskine says: "Mr. beauty of Kenwood (Lord Mansfield's) and Rush has spotted Burke's sarcasm. Upon the distant prospect burst upon them. 'Oh,' being conducted by my father to his garden, said Burke, 'this is just the place for a Reformer—all the beauties are beyond your reach.'"

was much pleased with his friendly familiarity, and we went into the house, where kind feelings between us were further improved. A short time afterwards he wrote that attack upon the Duke of Devonshire [Bedford?], Fox, and myself which flew all over England, and perhaps the United States.' All this his Lordship told in the best manner. In my form of repeating it I cannot do him justice. Desiring to hear something of Burke's delivery from so high a source, I asked him about it. 'It was execrable,' said he. 'I was in the House of Commons when he made his great speech on American conciliation, the greatest he ever made. He drove every body away. I wanted to go out with the rest; but was near him, and afraid to get up,—so I squeezed myself down and crawled under the benches like a dog, until I got to the door without his seeing me,—rejoicing in my escape. Next day I went to the Isle of Wight. When the speech followed me there, I read it over and over again. I could hardly think of any thing else. I carried it about me, and thumbed it until it got like wadding for my gun.' Here he broke out with a quotation from the passage beginning, 'But what, says the financier, is peace without money?' which he gave with a fervour showing how he felt it. He said that he was in the House when he threw a dagger on the floor in his speech on the French Revolution, and 'it had like to have hit my foot: it was a sad failure; but Burke could bear it.' He sat upwards of an hour, leaving me to regret his departure."

Our ex-Chancellor had not for some years visited Westminster Hall,—all his old associates having disappeared, and a new race having sprung up who knew him only by reputation; but at the Alfred Club, to which he belonged, he would still occasionally mount upon a table and give a specimen of his rhetorical powers, again fighting over fields that he had won. Nay, though steadily professing a belief in the Queen's innocence, he criticised the manner in which the prosecution had been conducted, and showed the line of examination and of argument by which an adverse decision might have been obtained.

He likewise still kept up a correspondence with his absent friends, and sent them metrical scraps, with which he tried to fill up his leisure. The following is his last letter to one of the warmest of his admirers:—

"Buchan Hill, Feb. 17, 1822.

"MY VERY DEAR PARR,

"If you wonder why I have not sooner thanked you for your most kind and delightful letter, which I shall keep as an heir-loom, it can only be from not having duly considered how difficult it is to find words to acknowledge it. I have read it over and over again, and my

children shall read it hereafter. There was an inaccuracy in my little sonnet upon the infant Hampden—which should run thus:—

Thy infant years, dear child; had pass'd unknown,
As wine had flown upon thy natal day;
But that the name of Hampden fires each soul,
To sit with rapture round thy birthday bowl—
Honest remembrance of his high renown
In the great cause of law and liberty.

Should Heaven extend thy days to man's estate,
Follow his bright example; scorn to yield
To servile judgments; boldly plead the claim
Of British rights; and should the sacred flame
Of eloquence die in corrupt debate,
Like Hampden, urge their justice in the field."

"These last lines may one day get this young gentleman hanged, unless he can take one just turn in hanging very many who so richly deserve it.

"Yours, very affectionately,

"ERSKINE."

Dr. Parr, in his will, thus testified his feelings for his patriotic correspondent:—"I give to the Right Honourable Lord Erskine a mourning ring, as a mark of my unfeigned respect for his noble exertions in defending the constitutional rights of juries and the freedom of the press, and for his vigorous and effectual resistance to the odious principle of constructive and accumulative treasons,—and, I thankfully add, for his disinterested acts of kindness to my sister and myself."

To support the cause of the Greeks, in the autumn of the year 1822 Erskine published a pamphlet, in the shape of a "Letter to Lord Liverpool;" which, if it be marked by a growing false taste in composition, proves a true and unabated

"The lawyer and the divine had long been accustomed to praise each other very lavishly. Erskine writes, soon after the State Trials in 1794,—"The approbation of such an excellent judge of every accomplishment is a great prize. It was not for nothing that I left the full-mooned term of last November at Westminster. No, I am no better than my neighbours,—I was only prudently preaching in these days of innovation for coin not subject to be debased in the esteem and approbation of such men as yourself; and I have so far succeeded, by the dint of sheer honesty (for I have little else to boast of), as to be compared to Demosthenes and Cicero, by one of

the very few who are capable of estimating either of them, and who ought to take the lead in England, whether ancient learning and eloquence are to be judged of in the abstract, or compared with the shadows which their descended radiance still gives birth to in our latter days." When the two met, their flattery seems to have been still more intense. On one occasion, Parr, at last, as the highest recompense that could be bestowed, said, "When you die, I will write your epitaph." Erskine replied, "This is almost a temptation, my dear doctor, instantly to commit suicide!"

love of freedom. He presented a copy of it to a lady of literary celebrity, with the following note:—

"DEAR LADY MORGAN,

"A long time ago, in one of your works (all of which I have read with great satisfaction), I remember you expressed your approbation of my style of writing, with a wish that I would lose no occasion of rendering it useful. I wish I could agree with your Ladyship in your kind and partial opinion; but as there never was an occasion in which it can be more useful to excite popular feeling than in the cause of the Greeks, I send your Ladyship a copy of the second edition, published a few days ago.

"With regard and esteem, &c. &c.

"E.

"No. 13, Arabella Row, Pimlico, London,
October 11, 1822."

Lady Morgan, when first introduced to him a good many years before, wrote this account of him to a friend: "I was a little disappointed to find that Erskine spoke like other persons,—was a thin, middle-aged gentleman, and wore a brown wig; but he was always delightful, always amusing, frequently incoherent; and, I thought, sometimes affectedly wild, at least paradoxical." Now she wrote, with great candour and kindness of heart: "The pamphlet for the Greeks is worth citing as a testimony to prove that years do not make age, and that freshness of feeling and youthful ardour in a great cause may survive the corporeal decay which time never spares, even to protracted sensibility."

I give one or two specimens to justify this criticism: "I feel, whilst I am writing, that the ink must first have become blood, to enable me fitly to express my detestation and abhorrence of their Turkish oppressors. To judge of what the Greeks under good government are capable of being, we have only to look back to what they have been. Their pedigrees, in which we can trace so many great men who never should have died, ought to protect them from the Saracens, who cannot show in all their escutcheons a single man who should have lived." Proposing to eject the Turks from Europe, he declares that "he would confide the matter to some long-practised diplomatist, with the assistance of a lawyer to draw up the *notice to quit*." He does not go on to explain how the writ of *habere fucias possessionem* was to be executed.—But it should be recollected that at this time such sentiments were shared by the most distinguished men. Byron

was actually carrying arms in the great enterprise; and Lord Dudley, though a non-combatant, wrote to the Bishop of Llandaff, "I have always considered it the greatest disgrace of Christendom to suffer these hated barbarians, the Turks, to remain encamped upon the finest and most renowned part of Europe for upwards of four centuries—during at least two of which it has been in our power to drive them out whenever we pleased; let us at least have one civilised and Christian quarter of the globe, although it be the smallest."

In thus addressing Lord Liverpool as an advocate for the liberty of the Greeks, Erskine showed that he had become a zealous convert to the abolition of the African slave trade,—forgetting even that he had once been deluded by the apparent happiness which he had seen the negroes enjoying in their midnight dances in the West Indies. After giving an affecting description of the horrors of the middle passage, particularly the slaves jumping overboard to be devoured by the sharks, which he says he had frequently beheld, he adds—"When, after all this, it fell at last to my lot, and through ways as unaccountable as unexampled, to preside in the Lords' House of Parliament, on their deliverance—to hold up in my hands the great charter of their freedom, and with my voice to pronounce that it should be law, your Lordship, I am sure, whom I respect and regard as a man of honour and feeling, will rather approve than condemn my retaining the whole subject of slavery in the most affecting remembrance."^a

Erskine was thus employed during the visit of George IV. to the Scottish metropolis. He privately expressed a wish that he might have been of the party,—to point out the beauties of his "own romantic town" to the first Brunswick Sovereign who had "kept court in Holyrood;" but there was a complete alienation between "Tom" and his old patron, who now hated all liberal men as well as liberal principles, and could with great difficulty be persuaded by his Tory Ministers to agree to the emancipation of the Catholics.

^a I am sorry to say that the lawyers were the last in the community to support the rights of their black brethren. Wilberforce, in his Diary, says,—"That the general bias of the Bar was in favour of an established trade in slaves with Africa, was confirmed by the defence which burst from the bol-

terous Thurlow, and for a moment trembled upon the lips of Erskine." . . . "The Bar were all against us upon the question of the African Slave Trade. Fox could scarcely prevent Erskine from making a set speech in favour of the trade."

Though no longer attending in Parliament, nor even making speeches at anniversary dinners, our ex-Chancellor was still desirous of keeping his name before the public,—or I ought, perhaps, rather to say, of rendering service to the country,—and, in the beginning of the year 1823, he published a pamphlet, which proved to be his last; for though his figure was still juvenile and his eye piercing, his career was near its close. The all absorbing subject of the day was “Agricultural Distress,” which, notwithstanding the protecting sliding scale of 1815, intended to prevent the price of wheat falling under eighty shillings the quarter, was now said to be dreadful; and certainly Erskine’s attempts to raise wheat on land intended by nature only for the production of birch brooms had turned out very disastrous. In his “Letter to the Proprietors and Occupiers of Land, on the Causes and Remedies for the Decline of Agricultural Prosperity,” he still harps upon “insufficient protection,” and the “burdens on land;”^{*} but he makes some good observations on the abuses of the old Poor Law, which many are so eager to restore. He thus illustrates his objection to the “allowance system” (*i. e.* apportioning parish relief according to the number of the family and the price of corn) then prevailing over the south of England:—

“A friend of mine in Sussex had a useful servant, who managed his small farm, and, being satisfied with his services, gave him higher wages than the common rate, a comfortable house to live in, besides firewood, with some little advantages which occasionally occurred. Nevertheless, this innocent-minded man, in a state of breathless agitation, addressed his master as follows: ‘Master, be I bound to maintain five children?’ To which the master said, ‘Whose children are they?’ ‘Why, I believe them to be my own,’ was the answer; to which the gentleman replied, ‘Who else should maintain them?’ ‘Why, *the parish*,’ replied the countryman, still more agitated. ‘What can you mean by that?’ said the master; ‘have you not sufficient wages to maintain your wife and children comfortably?’ ‘Why, to be sure, I have,’ said the countryman, ‘thanks to your honour’s kindness; my wife is a sober, good woman, so that we lays by a few shillings a week; but why be I to have no money from the parish, when every one else is paid who has children?’ The end of this dialogue was, that the man was directed never

^{*} “It was well observed by Mr. Holme Sumner, that a successful clamour for cheap bread, by the encouragement of foreign importers, would soon leave the people no bread at all. No schemes for the sustentation

of the poor, however judicious, will be attended with any material relief to the country, until we shut our ports by a higher scale than we have adopted.”—*Lord Erskine’s Pamphlet.*

Had he died in London, he certainly would have been honoured with a public funeral, and his mortal remains would have been deposited in Westminster Abbey, near those of his distinguished contemporaries, Pitt, Fox, and Wilberforce. But they moulder in the family burying-place at Uphall, a remote parish in the county of Linlithgow,—the hearse that conveyed them thither being attended only by a few relations and private friends. On this occasion, no solemn knell announced the approach of the illustrious deceased to his last resting-place,—no priest in holy vestment, with book in hand, paced the churchyard, chanting “I am the resurrection and the life,”—no swelling anthem resounded through the fretted aisles of a Gothic minster. In a narrow vault covered by weeds, near a small church, erected since the Reformation, and scarcely to be distinguished from a barn, the unadorned coffin of the immortal Thomas Erskine was placed by the side of his brother Henry; and the company having reverentially remained silent and uncovered while the ceremony was performed, departed, after casting a sorrowful look at the spot where he was to repose till the last trumpet should summon him to judgment.—But, though the interment was conducted in the Presbyterian fashion, the horror of Popish rites was so far relaxed in the country, that the Reverend Mr. Fergusson, the parish clergyman, prayed, and delivered an impressive address, before the simple procession moved from Almondell, and—without cassock or surplice—he followed it to the grave. Although it may be regretted that the beautiful funeral service in the English Liturgy is rejected, as superstitious, by our Scottish brethren, the extempore prayers and exhortations substituted in its place, for the edification and consolation of surviving relations and friends assembled in the house where

fore or on the very day that Lord Erskine died, when he had fallen into the state of desirium by which death is so often preceded, and in which the last thoughts that fleet through the mind previous to its separation from its terrestrial associate are apt to be expressed in mutterings, my father heard him pronounce these words with some declamatory emphasis:—“They have neither talents nor virtue to govern a nation.” Whether this sentiment had reference to the Government then actually existing, or to some other which his imagination had recalled, I must leave it to your Lordship’s sagacity to determine. I have heard my father, in mentioning

this anecdote, say that these words of Lord Erskine’s forcibly brought to his recollection what Dr. Baillie had told him relative to Mr. Pitt’s last hours: Dr. Baillie, having happened to arrive before the other medical attendants, entered his bedroom alone, when he heard him mutter in an irritable tone, and with a repetition of the expressions, “What, sir! haven’t you got enough?”—an expostulatory interrogation which Dr. Baillie said he feared must have been directed, in the wandering imagination of the Premier, against the insatiable demands of some place-seeking countryman of his own.”

the body lies, often produce an effect as touching and as salutary. Dr. Johnson himself has said,—

"Legitimas faciunt pectora pura preces."

There is no marble monument erected to Erskine's memory—nor any mural inscription to celebrate his genius and public services; but the Collection of his Speeches will preserve his name as long as the English language endures, and a simple narrative of his life will best show his claim to the gratitude of posterity.

On searching his papers the only will found was one dated so far back as the 15th of November, 1782. This had been made in contemplation of an affair of honour which proceeded to a hostile meeting in the field, but ended without bloodshed.* He prefaces the disposition of his property by a declaration that, "from a sense of honour, and not from any motive of personal resentment or revenge, he was about to expose his life to great peril." Nine thousand pounds in 3 per cent. consols, and one thousand pounds in bills, stated to be all acquired by his practice at the Bar, he left to his then wife, with the highest expressions of confidence and affection, for the maintenance of herself and her children,—they to inherit it, after her decease, in equal shares, as they attained twenty-one. But he provided that as, on account of her youth, she might probably marry again, and as such an event, though by no means deprecated by him, might be incompatible with the interests of his children, upon such second marriage the fund should be transferred to his sister, Lady Anne Erskine, in trust for the purposes above mentioned. By a codicil, dated October 2, 1786, when his property had greatly accumulated, he confirmed his will, and directed equal portions to after-born children. I am afraid that, at last, there was little forthcoming for these bequests to operate upon; but his family prized more his splendid reputation than any riches which he could have transmitted to them, and, without a murmur, thought of him with unmixed veneration and thankfulness.

To be descended from such a parent was indeed a great inheritance. Many generations may pass away before his equal is presented to the admiration of mankind. Of course, I do not refer to his qualifications as a Judge; and can only say of

* He was never fond of any allusion to this. It arose out of an altercation in a ball-room affair, as his antagonist was an apothecary. at Lewes.

him as a politician, that he was ever consistently attached to the principles of freedom, though by no means above the prejudices of education and country. As a parliamentary debater he was much inferior to several of his contemporaries; and even in our own degenerate age we could outmatch him.* But as an ADVOCATE in the forum, I hold him to be without an equal in ancient or in modern times.

Notwithstanding the flippant observations of some who can write and speak very fine sentences, without any notion of the real business of life, and who pretend to despise that for which they themselves would have been found utterly unfit, I boldly affirm that there is no department of human intellect in which the *mens divini* may be more refulgently displayed. I despise, as much as they can do, the man wearing a gown, be it of bombasin or of silk, who is merely "præco actionum, cantor formularum, auceps syllabarum,"—or who sordidly

* Some have supposed that his senatorial efforts appear to us generally so indifferent from bad reporting; but the following letter from him to Mr. Wright, the editor of the "Parliamentary Debates" (the original of which is in my possession, a present from my friend Mr. Surtess), shows that he was quite contented with the reports of his speeches in that collection as being full and faithful.—

"Dear Sir,

"If I did not know from long experience your singular correctness regarding your papers, I should be almost quite sure that you had all the speeches you ever sent me in time for the publication, except two, which, coming too late, you were so kind as to say (and which I hope you will not forget) you would reprint in the manner you mentioned. I am naturally very anxious that after, through your kind attention, so many of my speeches in Parliament appear so nearly as they were spoken, that the one in question should have the same advantage. I shall be in town on Sunday, when I will call on you; and although you may not be able to cut out a copy as you did with the others, you might find the book from which the others were taken, from which I would correct it without a moment's delay.

"Yours very sincerely,

"ERSKINE.

"Buchan Hill, near Crawley,
Nov. 26th, 1818."

However, he sometimes complained bitterly of the short-hand writers. In one of his letters to Mr. Howell, the editor of the "State Trials," now in my possession, he says: "I am used to the systematic bad grammar of the short-hand writers. None of them (Gurney excepted) ever use any tense but the *present*. If the speaker is speaking of a transaction as ancient as the flood, it is still the *present* tense, 'Noah ENTERS into the ark.' I believe no man who ever spoke extempore ever was so correct in tenses as myself. I have accustomed myself so much to that correctness in common conversation, that I could not depart from it if I were to try; and yet there is hardly any line in the whole copy you sent me in which there is not put into my mouth the *present* tense, for all that forms the variety of our English verbs. It is truly disgusting with other similar blunders; but to* a person so conversant with their ignorance and stupidity as I am, it can be corrected in half an hour."

Referring to his speech for the "Courier," he says, "I put every thing else aside, and turned the whole from the third person to the first. It is an admirably correct report."

* *Sic*, instead of "by,"—and rather careless in this boast of superior accuracy!

thinks only of amassing money, and regulates his attendance and his exertions according to the fee marked on his brief. But let us imagine to ourselves an advocate inspired by a generous love of fame, and desirous of honourably assisting in the administration of justice, by obtaining redress for the injured and defending the innocent,—who has liberally studied the science of jurisprudence, and has stored his mind and refined his taste by a general acquaintance with elegant literature,—who has an intuitive insight into human character and the workings of human passion,—who possesses discretion as well as courage, and caution along with enthusiasm,—who is not only able by his powers of persuasion to give the best chance of success to every client whom he represents in every variety of private causes, but who is able to defeat conspiracies against public liberty, founded upon a perversion of the criminal law,—and who, by the victories which he gains, and the principles which he establishes, places the free Constitution of his country on an imperishable basis! Such an advocate was Erskine; and although he did creditably maintain his family by professional *honoraries* voluntarily presented to him, he was careless as to their amount, and he was ready on every proper occasion to exert his best energies without any reward beyond the consciousness of doing his duty.^b Such an advocate, in my opinion, stands quite as high in the scale of true greatness as the Parliamentary leader who ably opens a budget, who lucidly explains a new system of commercial policy, or who dexterously attacks the measures of the Government. Certainly, different qualities of mind as well as different acquirements are demanded for these two kinds of eloquence; and it may be admitted that in senatorial deliberations there is a wider scope for an enlarged view of human affairs, and that they alone afford an opportunity for discussing the relative rights, duties, and interests of nations. But the forensic proceeding, though between private parties, or between the state and individual citizens, and though confined to a comparatively narrow field of investigation and of argument, has great advantages, from the intense and continued interest which it excites,—for, like a grand drama, it has often a well-involved plot, and a catastrophe which cannot be anticipated, rousing all the most powerful sympathies of our nature; and sometimes, as on the impeachment of Lord

^b *E. g.* When counsel for Hardy, Horne Tooke, and Thelwall, he pleaded *for love*. Indeed, it is contrary to professional etiquette to take a fee in high treason.

Strafford, or the Treason Trials of 1794, the fate of the empire may depend upon the verdict. Look to the recorded efforts of genius in both departments. I will not here enter into a comparison of the respective merits of the different sorts of oratory handed down to us from antiquity, but I may be allowed to observe that, among ourselves, in the hundred and fifty volumes of Hansard there are no specimens of Parliamentary harangues which, as literary compositions, are comparable to the speeches of Erskine at the Bar, with the exception of Burke's,—and these were delivered to empty benches. Do not, therefore, let it be assumed that Erskine is to be degraded into an inferior class of artists because he was not a skilful debater. He no doubt would have been a yet more wonderful creature if he had been as transcendent in the Senate as in the Forum; but we should recollect that, in the department of eloquence in which he did shine, he is allowed to have excelled, not only all his contemporaries, but all who have attempted it in this island, either in prior or in subsequent times,—while mankind are greatly divided as to the individual to whom the palm of Parliamentary eloquence should be awarded;—and there will again probably be a debater equal to Pitt the father, Pitt the son, Fox, Sheridan, Burke, or Grey, before there arises an advocate equal to Erskine.*

Some have denied the possibility of his exalted pre-eminence, on account of his limited stock of general knowledge; but, although much culture is indispensable to the development of the intellectual powers, and to the refinement of taste, this culture may be applied without the knowledge of a great variety of languages, and without any deep insight into science. No Greek knew any language but that which he learned from his nurse, and Shakspeare could not have gone through an examination as difficult as that of many modern

* I find him thus compared with his rivals in the Court of King's Bench —“He could not display the peculiar energy of Law, invigorated as it was by a Latinised phraseology, and a pronunciation slightly tinged with a Northern burr. He had not the coarse humour of Mingo, the tormenting pertinacity of Gibbs, or the interrogative astuteness of Garrow; but he possessed an opulence of imagination, a fertility of fancy, a power of commanding at an instant all the resources of his mind, and a dexterity in applying them, which the whole united Bar of England could

not equal.”

I have heard much speculation respecting the probable success of the younger Pitt, had he remained at the Bar. I think it must have been splendid; but, unless he had exhibited greater variety of manner, and a more familiar acquaintance with the common feelings of mankind, it never could have approached that of Erskine. Fox, in arguing questions of law on Hastings's trial, excited the astonishment and admiration of the Judges; and in every branch of forensic practice he would have been supreme.

parish schools. Far be it from me to discourage the acquisition of classical and scientific lore: this is delightful in itself, and it gives the best chance of success in every liberal pursuit; but where true genius exists, it may be brought into full operation and efficiency by suitable discipline within very narrow limits; and a man may be superior to all others in his art, and be ignorant of many things which it is disgraceful to the common herd of mortals not to know. Let it not be said, therefore, that Erskine could not, better than any other man, lead the understandings and control the passions of his audience when arguing a point of constitutional law, or appealing to the affections of domestic life, because he talked nonsense if he indiscreetly offered an opinion upon a question of prosody or of political economy. His moderate acquaintance with the Latin poets, and his intense and unremitting study of the best English writers, both in prose and verse, had taught him to think, and had supplied him with a correct, chaste, forcible, and musical diction, in which to express his thoughts. Although, judged by his common conversation, he was sometimes very lightly esteemed,—listen to his discourses when he is rescuing from destruction the intended victim of an arbitrary Government, or painting the anguish of an injured husband, and he appears to breathe celestial fire.

In considering the characteristics of his eloquence, it is observable that he not only was free from measured sententiousness and tiresome attempts at antithesis, but that he was not indebted for his success to riches of ornament, to felicity of illustration, to wit, to humour, or to sarcasm. His first great excellence was his devotion to his client; and, in the whole compass of his orations, there is not a single instance of the business in hand—the great work of persuading—being sacrificed to raise a laugh or to excite admiration of his own powers. He utterly forgot himself in the character he represented. Through life he was often ridiculed for vanity and egotism,—but not from any thing he ever said or did in conducting a cause in a court of justice. There, from the moment the jury were sworn, he thought of nothing but the verdict, till it was recorded in his favour. Earnestness and energy were ever present throughout his speeches—impressing his argument on the mind of his hearer with a force which seemed to compel conviction. He never spoke at a tiresome length; throughout all his speeches no weakness, no dulness, no

flagging is discoverable; and we have ever a lively statement of facts,—or reasoning pointed, logical, and triumphant.

I think I ought particularly to mention the familiar knowledge he displays of the most secret workings of the human mind. How finely he paints the peril arising from the perversion of what is good! "Some of the darkest and most dangerous prejudices of men arise from the most honourable principles. When prejudices are caught up from bad passions, the worst of men feel intervals of remorse to soften and disperse them; but when they arise from a generous though mistaken source, they are lugged closer to the bosom, and the kindest and most compassionate natures feel a pleasure in fostering a blind and unjust resentment." He spoke as his clients respectively would have spoken had they been endowed with his genius. "The dervise in the fairy tale, who possessed the faculty of passing his own soul into the body of any whom he might select, could scarcely surpass Erskine in the power of impersonating for a time the feelings, wishes, and thoughts of others."^a

I must likewise mention the delight I feel from the exquisite sweetness of his diction, which is pure, simple, and mellifluous,—the cadences not being borrowed from any model, nor following any rule, but marked by constant harmony and variety. The rhythm of the Indian Chief is, I think, more varied, richer, and more perfect than that of any passage from any other composition in our language.

When the great Lord Chatham was to appear in public, he took much pains about his dress, and latterly he arranged his flannels in graceful folds. It need not then detract from our respect for Erskine, that on all occasions he desired to look smart, and that when he went down into the country on special retainers he anxiously had recourse to all manner of innocent little artifices to aid his purposes. He examined the court the night before the trial, in order to select the most advantageous place for addressing the jury. On the cause being called, the crowded audience were perhaps kept waiting a few minutes before the celebrated stranger made his appearance; and when at length he gratified their impatient curiosity, a particularly nice wig and a pair of new yellow gloves distinguished and embellished his person beyond the ordinary costume of the barristers of the circuit.*

It may be more useful to hold up for imitation his admirable

^a Townsend's Eminent Judges, i. 434.

* Roscoe, 390.

demeanour while engaged in business at the Bar,—to which, perhaps, his success was not less due than to his talents. Respectful to the Judges, although ever ready to assert his independence,—courteous to the jury, while he boldly reminded them of their duties,—free from asperity towards his opponents,—constantly kind and considerate to his juniors,—treating the witnesses as persons, generally speaking, reluctantly attending to assist in the investigation of truth,—looking benevolently even on the bystanders, and glad when he could accommodate them with a seat,—of a gay and happy temperament, enjoying uninterruptedly a boyish flow of animal spirits, and enlivening the dullest cause with his hilarity and good-humour,—he was a universal favourite—there was a general desire, as far as law and justice would permit, that he should succeed, and the *prestige* of his reputation was considered the sure forerunner of victory. I have myself witnessed, from the students' box, towards the conclusion of his career at the Bar, his daily skirmishes and triumphs; but it is vain to try by words to convey an idea of the qualities which he displayed, or the effect which he produced.

Perhaps I may here appropriately introduce the estimate of other writers, entitled to more weight than mine, of his eloquence and professional qualifications. Butler, who had frequently heard him, observes:—"He often rose to the highest oratory, but it was always simple; and even in his sublimest flights there was much that was very familiar, but this rather set off than diminished their general effect."^f "In examining those particular qualities of Lord Erskine's speeches," says Roscoe, "which contributed more obviously to their success, the most remarkable will appear to be the exact and sedulous adherence to some one great principle which they uniformly exhibit. In every case he proposed a great leading principle to which all his efforts were referable and subsidiary—which ran through the whole of his address, arranging, governing, and elucidating every portion. As the principle thus proposed was founded in truth and justice, whatever might be its application to the particular case, it necessarily gave to the whole of his speech an air of honesty and sincerity which a jury could with difficulty resist." "Juries have declared," says Lord Brougham, "that they felt it impossible to remove their looks from him when he had riveted, and as it were fascinated, them by his first glance.

^f Butler's Rem. 72.

Then hear his voice, of surpassing sweetness, clear, flexible, strong, exquisitely fitted to strains of serious earnestness, deficient in compass, indeed, and much less fitted to express indignation, or even scorn, than pathos, but wholly free from harshness or monotony. No man made fewer mistakes, none left so few advantages unimproved; before none was it so dangerous for an adversary to slumber and be off his guard, for he was ever broad awake himself, and was as adventurous as he was skilful, and as apt to take advantage of any the least opening, as he was cautious to have none in his own battle." "His action," says Espinasse, "was always appropriate, chaste, easy, natural, in accordance with his slender and finely-proportioned figure and just stature. His features, regular, prepossessing, as well as harmonious, bespoke him of no vulgar extraction. The tones of his voice, though sharp, were full, destitute of any tinge of Scottish accent, and adequate to every emergency,—almost scientifically modulated to the occasion. He enlivened those who surrounded him with whimsical conceits, and jokes on what was passing. I had a full share of his *jeu d'esprit*, as my place in court was directly at his back." "Adequately to estimate what Erskine was at this period," says another brother barrister, "we must forget all that the English Bar has produced after him. They will afford no criterion by which he can be appreciated. They are all of inferior clay,—the mere sweepings of the Hall, in comparison. Nor is it easy to form any tolerable idea of him but by having seen him from day to day, from year to year, in the prime and manhood of his intellect, running with graceful facility through the chaos of briefs before him; it is only by that personal experience that it is possible to form any notion of the admirable versatility with which he glided from one cause to another—the irony, the humour, the good-nature with which he laughed down the adverse cause, and the vehemence and spirit with which he sustained his own."

In describing his professional merits, I ought by no means to omit his skill in examining witnesses, upon which the event of a cause often depends much more than upon fine speaking.—When he had to examine in chief,—not, as in common fashion, following the order of the proofs as set down in the brief,—seemingly without art or effort, he made the witness lucidly relate, so as to interest and captivate the jury, all the facts that were favourable to his client. In cross-

examination he could be most searching and severe; but he never resorted to browbeating, nor was gratuitously rude. Often he carried his point by coaxing; and when the evidence could not be contradicted, he would try by pleasantry to lessen the effect of it. Having to cross-examine a coxcombical fellow, belonging to the self-important class of persons sent by the wholesale houses in London to scour the country for orders,—formerly called “Riders,” now styling themselves “Travellers,”—he began, “You are a *Rider*, I understand?” “A Traveller, sir,” was the answer. “I might have discovered,” replied Erskine, “that you considered yourself *licensed* to use all the privileges of a *Traveller*.”—Another of the fraternity having long baffled him, he suddenly remarked, “You were born and bred in Manchester, I perceive?” The witness said he could not deny it. “I knew it,” said Erskine, carelessly, “from the absurd tie of your neckcloth.” The travelling dandy’s weak point was touched; for he had been dressing after Beau Brummel; and his presence of mind being gone, he was made to unsay the greatest part of his evidence in chief.—On the trial of an action to recover the value of a quantity of whalebone, the defence turning on the quality of the article, a witness was called, of impenetrable stupidity, who could not be made to distinguish between the two well-known descriptions of this commodity—the “long” and the “thick.” Still confounding *thick* whalebone with *long*, Erskine exclaimed, in seeming despair, “Why, man, you do not seem to know the difference between what is *thick* and what is *long*! Now I tell you the difference. You are *thick-headed*, and you are not *long-headed*.”—I myself remember when a student being present when he was counsel for the plaintiff in an action on a tailor’s bill,—the defence being, that the clothes were very ill-made, and, particularly, that the two sleeves of a dress-coat were of unequal length. The defendant’s witness accordingly swore, that “one of them was longer than the other;”—upon which Erskine thus began: “Now, sir, will you swear that one of them was not *shorter* than the other?” The witness negating this proposition, after an amusing reply the plaintiff had the verdict.—The more difficult and delicate task of re-examination he was in the habit of performing with equal dexterity,—not attempting clumsily to go over the same ground which he had before trod, but, by a few questions which strictly arose out of the cross-examination,

restoring the credit of his witness, and tying together the broken threads of his case.

As a mere author, I doubt whether he would ever have emerged from obscurity. From his peculiar temperament he seems to have required the excitement of listeners, and of controversy, and of instant applause, to brighten his imagination and to sharpen his faculties. Most of his prose compositions passed through several editions, as people had a curiosity to see an ex-Chancellor become a romance writer, or a pamphleteer; but if they had been published anonymously, or as written by John Smith or Thomas Tomkins, they would not even have reached the dignity of being censured by gods or men, or the columns of a newspaper.

We have seen that he likewise dabbled in poetry; but he prudently did not attempt more than *vers de société*,—and some of his metrical effusions are well calculated to promote the amusement of a drawing-room. I will here add a few to those which I have already introduced.

He had a kindness for his countryman Park, afterwards a Judge of the Court of Common Pleas, but occasionally quizzed him; and he wrote upon him the following lines, which, with a little alteration, might have been applied to himself:—

“James Allan Park
Came naked stark
From Scotland;
But now wears clo'es,
And lives with beaux
In England.”

On the long lanky visage of Mr. Justice Ashurst, before whom he daily practised, he penned the following couplet:—

“Judge Ashurst, with his *lantern jaws*,
Throws *light* upon the English laws.”^s

The Clerk of the Rules, a most important officer in the King's Bench, then was Mr. Short, who, notwithstanding severe illnesses, had reached a great age. On his eightieth birthday Erskine threw him the following lines, written on a scrap of paper torn from a brief:

^s It has been said that he was the author of the epigram on Judge Grose—

“Qualis sit Grotius Judex, uno accipo versu,
Exclamat, dubitat, stridet, balbutit et
errat;”

but Latin versifying was unknown at St. Andrew's in his time, and he would hardly (if he could) have given utterance to such a savage effusion.

"Tho' SHORT thy name, yet long thy life,
Triumphant o'er disease's strife;
For man's short days are long and full
To those who live, like you, by RULE."

The paper was immediately tossed back to him, with this answer subjoined, which he handed up to the bench, for the private amusement of my Lords the Judges :

"Your *Rule's* discharged. 'Tis plain your life
Has been and is maintained by—strife:
May still thy bag with RULES be full;
But *live*, as heretofore, *sans* RULE." ^b

When Sir Walter Scott, with a view to profit rather than fame, published "Paul's Letters to his Kinsfolk," with some very indifferent verses to celebrate the battle of Waterloo, Erskine, sitting at table, came out with the following *impromptu* :

"On Waterloo's ensanguined plain
Lie tens of thousands of the slain;
But none, by sabre or by shot,
Fell half so flat as WALTER SCOTT."

However, Erskine was generally more inclined to be good humoured and complimentary. Being much indisposed during dinner at Sir Ralph Payne's, in Grafton Street, he retired to another apartment, and reclined for some time on a sofa. In the course of the evening, being somewhat recovered, he rejoined the festive circle; and Lady Payne inquiring how he found himself, he presented to her the following couplet :

"'Tis true I am ill, but I need not complain,
For he never knew *placuisse* who never knew PAYNE."

The house of an eminent counsel in Red Lion Square being taken by an ironmonger, Erskine thus celebrated the event :

"This house, where once a lawyer dwelt,
Is now a smith's, alas!
How rapidly the *iron* age
Succeeds the age of *brass*!"

He composed the following lines to the memory of a beloved pony, "Jak," who had carried him on the Home Circuit when

^b The original now lies before me, having been transmitted to me from the Antipodes, by Sir H. E. Yong, Governor of South Australia, who is married to a grand-daughter of Mr. Short.—3rd Edition.

he was first called to the Bar and could not afford any more sumptuous mode of travelling :

"Poor Jack! thy master's friend when he was poor,
Whose heart was faithful, and whose step was sure,
Should prosperous life debase my erring heart,
And whisp'ring pride repel the patriot's part;
Should my foot falter at Ambition's shrine,
And for mean lucre quit the path divine;
Then may I think of thee when I was poor,
Whose heart was faithful, and whose step was sure."

Having thus spoken, in one of his pamphlets, of Frederica Duchess of York, "a lady whose talents, manners, and distinguished accomplishments I should have been more desirous to record in unfading numbers; but no man can add a cubit to his stature, and I must therefore content myself, in this note, to express my affection, admiration, and respect,"—and being afterwards at Oatlands, the company insisted on his inditing some verses, for which they maintained he had a genius. He extemporised this sextain :—

"Tom Erskine was once sailor, soldier, and lawyer,
A cross, beyond doubt, 'tween the Devil and Sawyer;
He tried all the tricks of the old common law,
Till to Chancery sent, which can cure every flaw;
So merrily, merrily let him live now,
A planter of trees, and a holder of plough."

On another visit at Oatlands, where he met Lewi the dramatist, Lady Anne Cullen Smith, and other wits, male and female, the company amused themselves in writing after dinner, what they called "Threadpaper Rhymes." Eschine, having borrowed Lewis's pencil, returned it with the following impromptu :—

"Your pencil I send, with thanks for the loan;
Yet, writing for fame now and then,
My wants I must still be content to bemoan,
Unless I could borrow—your pen."

Having, in another stanza, glanced with some severity at female failings, Lewis thus answered :—

"Lord Erskine, at women presuming to rail,
Says wives are tin canisters tied to our tail;
While fair Lady Anne, as the subject he carries on,
Feels hurt at his Lordship's degrading comparison.
Yet wherefore degrading? Consider'd aright,
A canister's useful, and polish'd, and bright;
And should dirt its original purity hide,
That's the fault of the puppy to whom 't is tied."

Erskine immediately put in his rejoinder :—

“When smitten with love from the eyes of the fair,
If marriage should not be your lot,
A ball from a pistol will end your despair—
It's safer than canister-shot.”

Impromptu written by LORD ERSKINE at Oatlands, on receiving from the DUCHESS OF YORK a Lock of Hair of the late lamented CHARLES JAMES FOX.

“Could relics, as at Rome they show,
Work miracles on earth below,
This little hallow'd lock of hair
Might soothe the patriot's anxious care;
Might, to St. Stephen's Chapel brought,
Inspire each virtuous, noble thought,
As when those ancient benches rung,
Whilst thunder roll'd o'er Fox's tongue;
Then might Old England hold more high
Her proud and matchless liberty.
Alas ! alas ! the vision's vain,
From the dark grave none come again.”

He afterwards printed for private circulation a poem of considerable length, which he thus prefaced :—“The following lines were occasioned by my having, at the instance of my bailiff in Sussex, complained to a neighbour of his rookery,—the only one in that part of the country : but having been afterwards convinced of the utility of rooks, I countermanded my complaint, and wrote ‘THE FARMER'S VISION.’ The lines are very incorrect and unfinished, being sketched only as a domestic amusement to inspire humane and moral feelings in a new generation of my family, and with that view were inscribed to my eldest grand-daughter, Frances Erskine, as the fair poetess of St. Leonard's Forest, who, not then sixteen years of age, could have handled the subject much better herself. It is indeed so capable of being made interesting, that I would have prolonged the vision, and worked it up into a poem, but for an insuperable objection, viz. that I am not a poet. It is not fit for publication ; a few copies are only printed for friends, who asked for them, as it was too long to make them in writing.—*Buchan Hill, Sussex, Dec. 25, 1818.*”—I copy a short specimen :—

“Old Æsop taught vain man to look
In Nature's much-neglected book,
To birds and beasts by giving speech,
For lessons out of common reach.
They whisper truths in reason's ear,
If human pride would stoop to hear,—

Nay, often in loud clamours crave
The rights which bounteous Nature gave.
A flock of rooks, my story goes,
Of all our birds the most verbose ——."

We are then told how the bailiff fired into a congregation of rooks and killed several of them,—when the wounded leader hoarsely thus *appealed to the superior court* :—

"Before the Lord of this domain
Sure justice should not plead in vain;
And shall he now, with such blind fury,
In flat contempt of judge and jury,
Foul murder sanction in broad day,
Not on the King's, but God's, highway?"

"Touch'd with the sharp but just appeal,
Well turn'd at least to make *me feel*,
Instant this solemn oath I took—
NO HAND SHALL RISE AGAINST A ROOK."

Then comes the "Vision:"—

"A form angelic seem'd to fly
On meteor wing across the sky:"—

and he discourses at much greater length, but not more poetically, than the rook, on the duty of humanity to the whole brute creation.

In the scarcity of 1801, the lawyers, under the presidency of the Master of the Rolls, having met and agreed to restrict their consumption of bread at all meals, Erskine sent the following protest to his Honour:—

"My early meal thy prudent care controls,
Lord of the breakfast! Master of the Rolls!
But as to dinner? What is treat to thee?
There COKE alone shall give the law to me!"

One day, in 1807, when engaged to dine on turtle with the Lord Mayor, he was obliged to sit late on the woolsack, Plumer pleading at the bar with extraordinary turbulence and tediousness, and justifying the saying that "his eloquence was like a tailor's goose, *hot and heavy*,"—the Chancellor was secretly very impatient and angry, but was observed to be writing diligently. Bishop Majendie then came up to Lord Grenville and said, "Lord Erskine seems very intent on this cause." Lord Grenville answered, "My Lord Chancellor always takes a note." Lord Holland, who was very familiar with him, and suspected from his manner that there was something unusual in his occupation, had overheard the conversation and asked for a

sight of his note-book. Being produced, it was found to contain the following lines addressed to Plumer—the ink not yet dry:—

“Oh that thy cursed balderdash
Were swiftly changed to callipash!
Thy bands so stiff, and snug toupee,
Corrected were to callipée;
That, since I can nor dine nor sup,
I might arise and eat thee up!”

Being once in a festive party, where every one present was required to make a new riddle, he most indecorously proposed the following:—

“DE QUODAM REGE.

“I may not do right, though I ne’er can do wrong;
I never can die, though I may not live long;
My jowl it is purple, my head it is fat—
Come, riddle my riddle. What is it? What? What?”

He was, nevertheless, a devoted friend to monarchy, and in his graver mood he was ready to do justice to the firmness of purpose and domestic virtues belonging to the Monarch, with whose appearance and phrasology he now used such unjustifiable freedom.

Without any refined wit, and with only a moderate portion of humour, he had much success in society from his constant hilarity and well-bred respect for the feelings of others. Fond as he was of talking, he never attempted to engross the whole conversation to himself, and, in choosing his topics and the manner in which he enlarged upon them, he considered the company he was addressing—not declaiming interminably, as if the listeners, whether ladies, military officers, members of parliament, or judges, were pupils to be instructed in a lecture-room,—nor entering into a disquisition on some recondite question with another reckless controversialist, each of them caring as little for the rest of the company as if the two were disputing together on Salisbury Plain. He paid to sex and station the deference due to them, and he was eager to bring forward into notice the most unobtrusive of all who were present.

It must be confessed that he much too often introduced stories of which he was himself the hero. His egotism is thus ingeniously and elegantly accounted for and palliated: “With an appetency of applause equal to that of which the

George III., distinguished by his “purple jowl” and interjection of *What! What!*

celebrated. Garrick was accused, he saw the evidences of his triumph daily, and was intoxicated with the incense. The loud laughter or tears of the audience, the occasional faintings in the boxes, could not more delight the soul of the modern Roscius, open to all the titillations of vanity, than did the visible emotions of jurymen—their relaxed muscles at the jest—the dark look of indignation at the invective—the plaudits, scarcely suppressed in deference to the Court—the favourable verdict—gladden the heart of the sensitive orator. Both were alike players, strutting their hour upon the stage, and would alike enact their parts over again, too frequently *encore* their best things at private rehearsals, making their homes a theatre, and their friends an audience.”¹

This propensity of Erskine drew down upon him much satire—without being at all repressed. A newspaper apologised for breaking off a speech of his at a public dinner in the middle because their stock of *I*'s was quite exhausted. Caricatures of him were published, under the name of “Counsellor Ego;”—and when he was to be raised to the peerage, it was proposed that he should take the title of “Baron Ego, of Eyc, in the county of Suffolk.” “The Pursuits of Literature” introduced this Dialogue between Octavius and the Author, who had been talking rather vaingloriously of his own exploits:—

“OCTAVIUS.

This of yourself?

AUTHOR.

’Tis so.

OCTAVIUS.

You’re turn’d plain fool,

A vain, pert prater, bred in *Erskine’s* school.”

Canning, in the “Anti-Jacobin,” in the following pretended report of his speech at a dinner of the “Whig Club,” attempted to ridicule his admiration of himself and of the French Directory, then lately established in power:—

“He had not the advantage of being personally acquainted with any gentleman of the Directory;—he understood, however, that one of them (Mr. Merlin), previous to the last change, had stood in a situation similar to his own; he was, in fact, nothing less than a leading advocate and barrister, in the midst of a free, powerful, and enlightened people. The conduct of the Directory, with regard to the exiled deputies, had been objected to by some persons on the score of a pretended rigour. For

¹ Townsend’s *Eminent Judges*, I. 458.

his part, he should only say that, having been, as he had been, both a soldier and a sailor, if it had been his fortune to have stood in either of these two relations to the Directory—as a man and as a major-general he should not have scrupled to direct his artillery against the national representation :—as a naval officer he would undoubtedly have undertaken for the removal of the exiled deputies : admitting the exigency, under all its relations, as it appeared to him to exist, and the then circumstances of the times, with all their bearings and dependencies, branching out into an infinity of collateral considerations and involving in each a variety of objects, political, physical, and moral ; and these, again, under their distinct and separate heads, ramifying into endless subdivisions, which it was foreign to his purpose to consider. Mr. Erskine concluded by recapitulating, in a strain of agonising and impressive eloquence, the several more prominent heads of his speech : he had been a soldier and a sailor, and had a son at Winchester School,—he had been called by special retainers, during the summer, into many different and distant parts of the country—travelling chiefly in post-chaises. He felt himself called upon to declare, that his poor faculties were at the service of his country—of the free and enlightened part of it at least. He stood here as a man—he stood in the eye, indeed in the hand, of God—to whom (in the presence of the company and waiters) he solemnly appealed. He was of noble, perhaps royal, blood—he had a house at Hampstead—was convinced of the necessity of a thorough and radical reform. His pamphlets had gone through thirty editions—skipping alternately the odd and even numbers. He loved the Constitution, to which he would cling and grapple—and he was clothed with the infirmities of man's nature. He would apply to the present French rulers (particularly Barras and Rewbell) the words of the poet—

‘Be to their faults a little blind,
Be to their virtues very kind ;
Let all their ways be unconfin’d,
And clap the padlock on their mind.’

And for these reasons, thanking the gentlemen who had done him the honour to drink his health, he should propose ‘*Merlin, the late Minister of Justice, and Trial by Jury.*’”

Cobbett about the same time published the following notice of one of his parliamentary harangues :—

“Mr. Erskine delivered a most animated speech in the House of Commons on the causes and consequences of the late war, which lasted thirteen hours, eighteen minutes, and a second, by Mr. John Nicholl’s stop watch. Mr. Erskine closed his speech with a dignified climax—‘I was born free, and, by God, I’ll remain so!’ [A loud cry of *Hear, hear!* in the gallery, in which were citizens Tallien and Barrère.] On Monday three weeks we shall have the extreme satisfaction of laying before the public a brief analysis of the above speech, our letter-founder having entered into an engagement to furnish a fresh fount of I’s.”

This distributor of honours afterwards offered him the title of "Lord *Clackmannon*."

A stronger proof of his incorrigible habit, we have in the following entry in the Journal of his friend and general admirer, Lord Byron:—

"A goodly company of lords, ladies, and wits. There was Erskine, good, but intolerable: he jested, he talked, he did everything admirably; but then he would be applauded for the same thing twice over. He would read his own verses, his own paragraphs, and tell his own stories again and again—and then the TRIAL BY JURY!!! I almost wished it abolished, for I sat next him at dinner. As I had read his published speeches, there was no occasion to repeat them to me."

In the Life of Dr. Burney by his daughter, we have a very lively picture on the same subject: she is giving an account of a party at Mrs. Crewe's, at which Lord Loughborough and Mr. Burke were present:—

"Mr. Erskine had been enumerating fastidiously to Mrs. Crewe his avocations, their varieties, and their excess; till at length mentioned very calmly, having a cause to plead soon against Mr. Crewe, upon a manor business in Cheshire. Mrs. Crewe hastily interrupted him, with an air of some disturbance, to inquire what he meant, and what might ensue to Mr. Crewe. 'Oh, nothing but losing the lordship of that spot,' he coolly answered, 'though I don't know that it will be given against him; I only know for certain that I shall have 300*l.* for it.' Mrs. Crewe looked thoughtful; and Mr. Erskine then, finding he engaged not her whole attention, raised his voice as well as his manner, and began to speak of the new Association for Reform by the Friends of the People, —descanting in powerful, though rather ambiguous, terms upon the us they had thought fit in that Association to make of his name, though he had never yet been to the society; and I began to understand that he meant to disavow it; but presently he added, 'I don't know, I am uncertain whether I shall ever attend. I have so much to do—so little time—such interminable occupation! However, I don't yet know. I am not decided, for the people must be supported!'"—"This renowned orator," Madame D'Arblay satirically adds, "at a convivial meeting at his own house, fastened upon my father with all the volubility of his eloquence, and all the exuberance of his happy good-humour, in singing his own exploits and praises, without insisting that his hearer should join in the chorus; or rather, perhaps, without discov'ring, from his own self-absorption, that this ceremony was omitted."

His infirmity is likewise censured by Hannah More, who, I suppose, had been silenced when she wished to enlarge upon her own writings and her own good deeds:—

"Among the chief talkers at the Bishop of St. Asaph's," says she, "was Mr. Erskine. To me he is rather brilliant than pleasant. His animation is vehemence, and he contrives to make the conversation fall too much on himself—a sure way not to be agreeable in mixed company."

One celebrated "blue-stocking," however, seems to have been almost in love with him when she was well stricken in years, and she bestows enthusiastic commendation on his social powers:—

"The enchanting Mr. Erskine," writes Miss Seward, "honoured me with frequent attentions in the ball-room at Buxton, and with frequent visits at my lodgings, where he often met Mr. Wilberforce. . . . Did Mr. Erskine tell you of our accidental *rencontre* on the Chatsworth road? I said to my mind, 'What an elegant figure is that gentleman approaching us, who, loitering with a book, now reads, and now holds the volume, in a dropt hand, to contemplate the fine views on the right! There seems mind in every gesture, every step; and how like Mr. Erskine!' A few seconds converted resemblance into reality. After mutual exclamations, the graceful Being stopped the chaise, opened the door, and, putting one foot on the step, poured all his eloquence upon a retrospect of the hours we had passed together at Buxton, illuminating, as he flatteringly said, one of those seldom intervals of his busy life, in which his mind was left to enjoy undisturbed the luxury of intellectual intercourse."

All impartial persons allowed, that, however excessive Erskine's egotism might be, it was accompanied with much *bonhomie*, and was entirely free from arrogance or presumption. Though vain, he never felt any envy or jealousy of others; and, instead of trying to stifle the reputation of rivals by open or secret means, he sincerely and cordially praised, and heard praise bestowed upon, what was meritorious in the departments which most excited his own emulation.*

When I entered Westminster Hall, it rang with Erskine's jokes, consisting chiefly of puns,—some of them very good,

* Since I wrote these observations, I have received a letter from the Right Hon. Thomas Erskine, in which, referring to Miss Burney's strictures on his illustrious father, he says,—“The merits of ‘Evelina’ were probably but little known to my father, who seldom read books of that sort. The clever authoress, with great *naïveté*, mentions the fact, that ‘Mr. Erskine confined his attention exclusively to Mrs. Crewe;’ and thus unconsciously records another instance of the all-pervading infirmity of egotism. My poor

father's fault was in not appreciating the sensitiveness of others, and in not perceiving the necessity for controuling this universal passion. He was too artless to disguise his love of praise; but he is entitled to this distinction,—his thirst for approbation never led him to deprecate the merits of others; and his whole life pronounces him innocent of that bitterness of spirit which too often marks the impatience of genius and talent when the appetite of a rival for the common food is too little disguised.”

and some of them requiring his established reputation to make them circulate.—A junior barrister, joining the circuit, had the misfortune to have his trunk cut off from the back of his post-chaise, on which the jocund leader comforted him by saying, “Young gentleman, henceforth imitate the elephant, the wisest of animals, *who always carries his TRUNK before him.*”

He afterwards embraced a favourable opportunity of repeating the same joke. *Polito*, the keeper of the wild beasts in Exeter Change, having brought an action against the proprietors of a stage-coach for negligence, whereby his portmanteau was stolen from the boot of the vehicle, he himself having been riding on the box,—“Why did he not,” said the defendant’s witty counsel, “take a lesson from his own sagacious elephant, and travel with his TRUNK *before him?*”^m

Crossing Hampstead Heath, he saw a ruffianly driver most unmercifully pummelling a miserable, bare-boned pack-horse,—and, remonstrating with him, received this answer, “Why, it’s my own! mayn’t I use it as I please?” As the fellow spoke, he discharged a fresh shower of blows on the raw back of his beast. Erskine, much irritated by this brutality, laid two or three sharp strokes of his walking-stick over the shoulders of the cowardly offender, who, crouching and grumbling, asked him what business he had to beat him with a stick? “Why,” replied Erskine, “my stick is my own; mayn’t I use it as I please?”

Being counsel for a person who, whilst travelling in a stage-coach which started from the “Swan with two Necks,” in Lad Lane, had been upset and had his arm broken, he thus with much gravity began:—“Gentlemen of the jury, the plaintiff in this case is Mr. Beverley, a respectable merchant of Liverpool, and the defendant is Mr. Nelson, proprietor of the Swan with two Necks, in Lad Lane,—a sign emblematical, I suppose, of the number of necks people ought to possess who ride in his vehicles.”

In an action against a stable-keeper, for not taking proper care of a horse,—“The horse,” said Mingay, who led for the plaintiff, “was turned into a stable, with nothing to eat but musty hay. To such feeding the horse *demurred.*” “He should

^m The Right Hon. Thomas Erskine, from whom I have this anecdote, adds,—“*Polito’s* portmanteau was put into the boot behind by his own directions; and the jury adopted my father’s suggestion, that the loss was owing

to his own indiscretion, and gave a verdict for the defendant, to the great indignation of Lord Kenyon, who had told them it was an undefended cause. The joke, perhaps, helped the conclusion.”

have gone to the country," retorted Erskine. This, though *caviare to the multitude*, to a true special pleader is of exquisite relish,—"demurring," and "going to the country," being the technical terms for requiring a cause to be decided on a question of *law* by the judges, or on a question of *fact* by the jury.*

I must have credit with non-professional readers for my assertion that the following is equally delectable. Billy Baldwin, a low practitioner in the King's Bench, was much employed in bail-business, and moving attachments against the sheriff "for not bringing in the body," i. e. for not arresting and imprisoning debtors. Being told that Billy had sold his house in Lincoln's Inn Fields, now Surgeons' Hall, to the Corporation of Surgeons, "I suppose," said Erskine, "it was recommended to them from Baldwin being so well acquainted with the *practice of bringing in the body*."

When he was Chancellor, being asked by the Secretary to the Treasury whether he would attend the grand Ministerial fish-dinner to be given at Greenwich at the end of the session, he answered, "To be sure I will; what would your fish-dinner be without the GREAT SEAL?"

I venture on one more, which, though it has a legal aspect, all will understand. His friend Mr. Maylem, of Rainsgate, having observed that his physician had ordered him not to bathe, "Oh, then," said Erskine, "you are *malum prohibitum*." "My wife, however," resumed the other, "does bathe." "Worse still," rejoined Erskine, "for she is *malum in se*."

When about to be created a Knight of the *Thistle*, he was jeered by one of his friends, who observed, "I suppose you next mean to have the *Garter*." He answered, "You seem to suppose that, having been in the Navy, the Army, and the Law, I am now going to *take Orders*."

In the exuberance of his fun he was likewise fond of what may be called practical jokes. The late worthy Sir John Sinclair having proposed that a testimonial should be presented to himself by the British nation, for his eminent public services,—in answer to one of his circulars, Erskine wrote on the first page of a letter in a flowing hand these words, which filled it to the bottom:—

"MY DEAR SIR JOHN,

"I am certain there are few in this kingdom who set a higher

value on your public services than myself—and I have the honour to subscribe”—

Then, on turning over the leaf, was to be found—

“Myself,

“Your most obedient faithful servant,

“T. ERSKINE.”

He would produce his leeches at consultation under the name of “bottle conjurors,” and argue the result of the cause according to the manner in which they swam or crawled;—and a still more favourite amusement with him was to make his large Newfoundland dog, Toss, personate the Judge. He had taught this animal to sit with much gravity upon a chair with his paws placed on the table, and occasionally he would put a full-bottom wig on his head and a band round his neck—placing a black-letter folio before him. The clients, as we may suppose, were much startled by such exhibitions; but then was the time when he took his amusement, and, rising next morning at cock-crow, he read all his briefs before the Court met, and won all the verdicts.

His general urbanity of manner to all classes and degrees of men deserves to be specially recorded. Notwithstanding his occasional effusions about his “noble, if not royal, descent,” he was, in truth, free from the slightest taint of arrogance or *hauteur*. Once he asserted, in a marked manner, his precedence as an Earl’s son. During the State Trials, in 1794, he thought that Eyre, from the bench, had treated him with indignity; and, both dining at the Old Bailey the same day, he ostentatiously took the *pas* of the Chief Justice. But on ordinary occasions he did not at all presume upon his birth, and he was willing to place himself on a footing of perfect equality with all who approached him.^a

I ought farther to mention that humanity to animals was not a mere subject of talk or of legislation with him, but was a constantly actuating principle of his life. Of this I find a striking instance recorded in the Annual Register:—“Feb. 3rd, 1807. As the Lord Chancellor was passing through Holborn on foot, he observed a number of men and boys hunting and beating on the head a little dog with sticks, under the idea of his being mad. The Ld. Chan., with great

^a I have no doubt that his rank, being joined with poverty and energy, materially assisted his progress. It gave him confidence, and made him more favourably listened to, both by judges and jurymen.

humanity, observing not the least symptom of madness, rushed into the crowd, seized the poor animal from the hands of its destroyers, and carried it some distance, till he met a boy, whom he hired to carry it home with him, to his Lordship's house in Lincoln's Inn Fields: when he gave it into the care of a servant to be taken to his stables."—Not only was he kind to such attached favourites as "faithful Jack," the goose who followed him about his grounds, and Toss, so like a judge; but he ever took delight in protecting from ill-usage any living-creatures, in watching their sports, and adding to their enjoyments.

Although he sometimes talked with levity on sacred subjects, he had deep and sincere religious feelings, and he might be considered as inclining to superstition rather than to scepticism. He not only believed in the general moral government of God, but in particular interpositions of his power for the benefit of highly-favoured individuals. "At the famous State Trials, in 1794, he lost his voice on the evening before he was to address the jury. It returned to him just in time; and this, like other felicities of his career, he always ascribed to a special providence, with the habitually religious disposition of mind which was hereditary in the godly families that he sprung from."

He either was, or pretended to be, a believer in *Second Sight* and *Ghosts*. Perhaps he worked himself up to the persuasion that he was sincere, in order that he might, with a good conscience, appear a very extraordinary man, and make people stare; but I suspect that he would occasionally, with deliberation, mystify his hearers. There being a round of ghost-stories in a large company at the old Duchess of Gordon's, when it came to the turn of Erskine, then an ex-Chancellor, he spoke as follows: "I also believe in *Second Sight*, because I have been its subject. When I was a very young man, I had been for some time absent from home. On the morning of my arrival in Edinburgh, as I was descending the steps of a close, on coming out from a bookseller's shop, I met our old family butler. He looked greatly changed,—pale, wan, and shadowy as a ghost. 'Eh, old boy,' I said, 'what brings you here?' He replied, 'To meet your Honour, and solicit your interference with my Lord, to receive a sum due to me, which the steward, at our last settlement, did not pay.' Struck by his look and manner, I bade him follow me to the bookseller's, and into

° Lord Brougham.

whose shop I stepped back. But when I turned round to him, he had vanished. I remembered that his wife carried on some little trade in the Old Town; I remembered even the house and flat she occupied, which I had often visited in my boyhood. Having made it out, I found the old woman in widow's mourning. Her husband had been dead for some months, and had told her, on his death-bed, that my father's steward had wronged him of some money, but 'that when Master Tom returned, he would see her righted.' This I promised to do, and I shortly after fulfilled my promise. The impression was indelible; and I am extremely cautious how I deny the possibility of such 'supernatural visitings' as those which your Grace has just instanced in your own family."

Erskine's personal advantages have been already alluded to. His constitution was remarkably strong; and it was mentioned by himself, in the House of Lords,⁹ as a singular fact, that during the twenty-eight years of his practice at the Bar, he had never for a single day been prevented from attending to his professional duties.

Before coming to his descendants, I must briefly notice his two brothers, with whom he always kept up an affectionate intercourse during their respective lives. The Earl of Buchan, who spent half a century in increasing his income by saving—from 200*l.* to 2000*l.* a-year, might by his talents have made a considerable figure in the world had it not been for his morbid vanity, which is said to have been more excessive than ever was seen in a human being. Having no children by his wife, he used often to observe, "According to Bacon, '*great men have no continuance*,' and in the present generation there are three examples of it, Frederick of Prussia, George Washington, and myself." At the university of Leyden, while bearing the title of Lord Cardross, he had been a fellow student with Lord Chatham, who afterwards kindly offered him the appointment of secretary of embassy at Lisbon; but he refused it because Sir James Gray, the ambassador, was only a baronet. To be sure Dr. Johnson ignorantly and foolishly said, "Sir, had he gone secretary while his inferior was ambassador, he would have been a traitor to his rank and family." There can be no doubt that he acted most absurdly. He comforted himself for the rest of his days in talking of his ancestors, and corresponding with great people.—Observing to the Duchess of Gordon, "We inherit all our cleverness

from our mother;" she answered, "I fear that, as is usually the case with the mother's fortune, it has all been settled on the younger children."

He still continued to write letters to Lord Chatham, and in one of these he curiously introduces the future Chancellor:—"A brother of mine is just arrived from our colonies of East and West Florida, and gives me but a very unfavourable account of the capabilities of those countries. He brought me likewise a curious account of a negro conqueror, who has subdued a great part of Africa, lying nearer our settlements, and has occasioned the building of our new fort on that coast. He carries eight Arabic secretaries, who record his feats in that language. My brother has also conversed with Commodore Byron's officers, and confirms the account of the Patagonian giants."—Occupying, like his father, a "flat" in the old town of Edinburgh, he thought to place himself at the head of the literati there, but was baffled in an attempt to found a "Society of Antiquaries,"—when he thus complained to a distant friend:—"I have been ungenerously requited by my countrymen for endeavouring to make them happier and more respectable. This is the common lot of men who have a spirit above that of the age and country in which they act, and I appeal to posterity for my vindication. I could have passed my time much more agreeably among Englishmen, whose character I preferred to that of my own countrymen, in a charming country too, where my alliance with the noblest and best families in it, and my political sentiments, would have added much to my domestic as well as civil enjoyments; but I chose rather to forego my own happiness for the improvement of my native country, and expect hereafter that the children of those who have not known me, or received me as they ought to have done, will express their concern, and blush on account of the conduct of their parents. *'Præclarâ conscientiâ igitur sustentor, cum cogito me de republicâ aut meruisse quum potuerim, aut certe nunquam nisi divinè cogitasse.'*"

Soon after, he entirely abandoned the ungrateful city of Edinburgh, and concealed himself amid the shades of Dryburgh, where he had purchased an estate. On this occasion he published a general epistle in Latin, addressed to all the literati of the world. He afterwards thus apologised for not

⁴ The "Middy" seems to have considered himself "*licensed as a traveller*," and to have told as great wonders as of "the Anthro-

phagi, and men whose heads do grow beneath their shoulders."

doing more to enlighten mankind :—" My insatiable thirst of knowledge, and a genius prone to splendid sciences and the fine arts, has distracted my attention so much that the candid must make ample allowances for me in any one department ; but, considering myself as a nobleman and not a peer of Parliament, —a piece of ornamental china as it were,—I have been obliged to avail myself of my situation to do as much good as I possibly could without acting in a professional line, which my rank and my fate excluded me from. A discarded courtier, with a little estate, does not find it easy to make his voice be heard in any country, and least of all in Scotland."—However, he contrived to persuade him whom he styled sometimes the " American Buchan," that he was really a great man, and sending him a snuff-box made from the oak which sheltered Wallace after the battle of Falkirk, received Washington's portrait in return, with the following acknowledgment : " I accept with sensibility and satisfaction the significant present of the box, which accompanied your Lordship's letter."

Lord Coke says, " a man has in him all his posterity ;" and Lord Buchan thought that he had in himself all his ancestors, or that the whole line formed a corporation sole never visited by death. He always spoke, therefore, of their actions as his own ; and a stranger, not aware of this habit, was amazed once, although his Lordship did look very old, to hear him say at a dinner table, " I remonstrated strongly, before it took place, against the execution of Charles I."

An uncle of mine, a clergyman, who lived in the neighbourhood, once gave me a ludicrous account of the Earl's installation of a colossal statue to Sir William Wallace on the anniversary of the victory of Stirling Bridge, obtained in 1297. The following was the inscription on the base : " In the name of my brave and worthy country, I dedicate this monument, as sacred to the memory of Wallace, —

" The peerless Knight of Ellerslie,
Who woo'd on Ayr's romantic shore,
The beaming torch of liberty ;
And roaming round from sea to sea,
From glade obscure, or gloomy rock,
His bold compatriots called to free
The realm from Edward's iron yoke."

A great curtain was drawn before the statue, which dropped at the discharge of a cannon ; and then the Knight of Ellerslie was discovered with a huge German tobacco-pipe in his mouth, which some wicked wag had placed there,—to

the unspeakable consternation of the peer, and amusement of the company.

Nevertheless, he did some good by his patronage of letters. He encouraged the early efforts of Burns, Scott, and other men of genius; and he founded an annual prize in the University of Aberdeen, as an incentive to the study of the classics. It must be confessed, however, that the prize was of very minute intrinsic value, and operated only like the crowns of laurel and parsley distributed at the Olympic games.

Of all his poetical writings there are now extant only four lines, which he wrote with his own hand on the wall of St. Bernard's Well, in the neighbourhood of Edinburgh:—

"O drink of me only; O drink of this well,
And fly from vile whiskey, that lighter of hell.
If you drink of me only—or drink of good ale—
Long life will attend you—good spirits prevail."

[Quoth the Earl of Buchan.]

He considered himself quite superior in genius to his younger brothers, and he was rather shocked that they had got on in the world by following a trade. Yet at times he would boast of their elevation,—taking all the credit of it to himself. He said to an English nobleman who visited him at Dryburgh, "My brothers Harry and Tom are certainly extraordinary men; but they owe every thing to me." This observation occasioning an involuntary look of surprise in his guest, he continued, "Yes, it is true; they owe every thing to me. On my father's death, they pressed me for a small annual allowance. I knew that this would have been their ruin, by relaxing their industry. So, making a sacrifice of my inclination to gratify them, I refused to give them a farthing; and they have both thriven ever since,—*owing every thing to me.*"

While the head of the family made himself so ridiculous, Henry Erskine, the second brother, was universally beloved and respected. After studying at the Universities of St. Andrew's and Edinburgh, he was called to the Scotch Bar, and became its brightest ornament. Like Lord Loughborough, he first distinguished himself as a Ruling Elder in the debates of the General Assembly, then the best theatre for deliberative eloquence to be found in Scotland. He soon got into extensive practice, and he established a new æra in the history of the Parliament House. The old pleaders,

reared at the Dutch Universities, were very learned, but confined themselves to heavy quotations from Craig, Vinius, and Voet. He, by no means deficient in professional learning, indulged in the boldest sallies of imagination; and his *serui commixtu joci*, while they delighted the Judges and the crowd who came to listen to him, in all separate cases secured the judgment of the Court in favour of his clients. He had the fervid genius of the youngest brother without any of his eccentricities, and only required the same field for a display of his powers to have excelled him. Yet while, by the unanimous suffrages of the public, he found himself placed without a rival at the head of a commanding profession, his general deportment was characterised by the most unaffected modesty and easy affability; and his talents were not less at the service of indigent but deserving clients, than of those whose wealth or influence enabled them most liberally to reward his exertions. Henry Erskine was in an eminent sense the "advocate of the people" throughout the long course of his professional career. It is said that a poor man, in a remote district of Scotland, thus answered an acquaintance who wished to dissuade him from engaging in a lawsuit with a wealthy neighbour, by representing the hopelessness of his being able to meet the expense of litigation: "Ye dinna ken what ye're saying, maister; there's no a puir man in a' Scotland need to want a friend, or fear an enemy, sae lang as Hairy Askin lives."

True to the Whig principles in which he was reared, he was in Opposition during nearly the whole of his life; but such was the habitual sweetness of his temper, and such the fascination of his manners, that, in times when political animosities were carried to a lamentable height, no one was known to speak or to think of him with any thing approaching to personal hostility. By the choice of his brother advocates, he many years enjoyed the dignity of Dean of Faculty, and twice he tasted office under the Crown as Lord Advocate—first during the "Coalition Ministry" in 1783, and again under the "Talents," when Thomas was Chancellor. I remember then hearing him plead a cause at the bar of the House of Lords—all the Courts in Westminster Hall being deserted from a curiosity to compare the two brothers,—and full justice was done to the elder. He at that time represented Dumfries, but he never opened his mouth in the House of Commons; so that the often-debated ques-

tion, how he was qualified to succeed there, remained unsolved. Though baffled in some of his pursuits, and disappointed of the honours to which his claim was universally admitted, he never allowed the slightest shade of discontent to rest upon his mind, nor the least drop of bitterness to mingle with his blood. On the approach of the infirmities of age, he retired to his beautiful villa of Almondell, in West Lothian. "Passing thus," says one who knew him well, "at once from all the bustle and excitement of public life to a scene of comparative inactivity, he never felt a moment of *ennui* or dejection; but retained unimpaired, till within a day or two of his death, not only all his intellectual activity and social affections, but, when not under the immediate infliction of a painful and incurable disease, all the gaiety of spirit and all that playful and kindly sympathy with innocent enjoyment which made him the idol of the young and the object of cordial attachment and unenvying admiration to his friends of all ages."

Such was his fame for wit, that, besides the genuine offspring of his own brain, most of the good things of the day, and many of days long gone by, were imputed to him. A few have been sent to me, which may be relied upon as *genuine*. Having been speaking in the Outer House, at the bar of Lord Swinton, a very good but a very slow and deaf Judge, he was called away to the bar of Lord Braxfield (the well-known Justice Clerk Macqueen), who was Lord Ordinary for the week. On his coming up, Lord Braxfield said to him, "Well, Dean, what is this you've been talking so loudly about to my Lord Swinton?" "About a cask of whiskey, my Lord" (replied Harry); "but I found it no easy matter to make it *run in his Lordship's head*."

Andrew Balfour, one of the commissaries of Edinburgh, was a man of much pomposity of manner, appearance, and expression. Harry met him one morning coming into the Court, and observing that he was lame, said to him, "What has happened, Commissary? I am sorry to see you limping." "I was visiting my brother in Fife," answered the commissary, "and I fell over his stile, and had nearly broken my leg." "'Twas lucky, Commissary" (replied Harry), "it was not your *own stile*, for you would then have broken your neck."

* For example, I well remember hearing, when a boy, that Harry Erskine, being told before I got another.—"To be found in Swift's by a friend that "his coat was much too short," answered, "It will be *long enough* before I get another."—"To be found in Swift's "Polite Conversation."

His brother, the Earl of Buchan, who aimed at being a jester as well as a philosopher and a poet, one day putting his head below the lock of the parlour-door, exclaimed, "See, Harry, here's 'Locke on the Human Understanding ;'"—"Rather a poor edition, my Lord," replied Harry.

Succeeding Dundas as Lord Advocate, that good-humoured politician offered to lend him his embroidered official gown, as he would not want it long. "No," said he in the same spirit, "I will not assume the *abandoned habits* of my predecessors."

These smart sayings were sometimes lost upon some of his countrymen—who at least required time to consider them. It is related that Lord Balmuto, sitting on the bench, would retain the most inflexible gravity, notwithstanding a mirth-moving jest from the Dean; and some hours after, when another cause was called, would suddenly grin and exclaim, "Oh! Mr. Erskine, I hae ye noo—I hae ye noo: very gude, very gude!"

Henry likewise displayed the family faculty for versifying—of which we have a specimen in the lineshe improvised on reading Moore's translation of Anacreon :-

"Oh! mourn not for Anacreon dead;
Oh! weep not for Anacreon fled;
The lyre still breathes he touch'd before,
For we have one ANACREON MOORE."

Sir Walter Scott, in his Diary, thus speaks of the three brothers:—"April 20, 1829. Lord Buchan is dead, a person whose immense vanity, bordering upon insanity, obscured or rather eclipsed very considerable talents. His imagination was so fertile that he seemed ready to believe the extraordinary things which he delighted in telling. His economy, most laudable in the early part of his life, when it enabled him from a small income to pay his father's debts, became a miserable habit, and led him to do mean things. He had a desire to be a great man, and a Mæcenas à bon marché. The two great lawyers, his brothers, were not more gifted by nature than I think he was; but the restraints of a profession kept the eccentricity of the family in order. Henry Erskine was the best-natured man I ever knew—thoroughly a gentleman—and with but one fault; he could not say 'No,' and thus sometimes misled those who trusted him. Tom Erskine was positively mad. I have heard him tell a cock-and-a-bull story of having seen the ghost of his father's servant, John

Barnett, with as much gravity as if he believed every word he was saying. Both Henry and Thomas were saving men, yet both died very poor: the latter at one time possessed 200,000*l.*; the other had a considerable fortune. The Earl alone has died wealthy. It is saving, not getting, that is the mother of riches. They all had wit. The Earl's was crack-brained, and sometimes caustic. Henry's was of the very kindest, best-humoured, and gayest sort that ever cheered society; that of Lord Erskine moody and muddish. But I never saw him in his best days." Sir Walter himself was at this time in declining health, his spirits affected by the pecuniary difficulties in which he was involved, and his judgment still biassed by political animosity, which grew stronger as he approached the end of his career,—otherwise his kindly nature, and exquisite relish for the beautiful and the good, wherever to be discerned, would have induced him to speak more warmly of the merits, and more mercifully of the failings, of LORD CHANCELLOR ERSKINE.*

This extraordinary man,—who will be a greater boast to his descendants than any Earl of Buchan or of Mar, or any royal progenitor,—by his first marriage had eight children: Frances, married to the Reverend Dr. Holland, Prebendary of Chichester; Mary, married to Edward Morris, Esq., the Master in Chancery; David Montague, the present Lord, who has served his country as minister to the United States of America and at the Court of Wirtemberg; Thomas, a Judge of the Court of Common Pleas, one of the most upright and amiable of men; and Esmé Stewart, an officer in the army, who fought gallantly at Waterloo, and died from the consequences of a severe wound he received from a cannon-shot near the end of the day, by the side of the Duke of Wellington.

I must now reluctantly take leave of a task which I feel that I have inadequately performed—having attempted to describe the mental powers and intellectual achievements of Erskine. With his external lineaments posterity will be

* Walter could even utter a bitter joke at the funeral of the old Earl.—"April 25th. Time to set out for Lord Buchan's funeral at Dryburgh. His Lordship's burial took place in a chapel amongst the ruins. His body was in the grave with its feet pointing westwards. My cousin Maxpopple was for taking notice of it; but I assured him 'that

a man who had been wrong in the head all his life would scarce become right-headed after death.'" He concludes, however, with a touch of tenderness: "I felt something at parting with this old man, though but a trumpery body. He gave me the first approbation I ever obtained from a stranger."

rendered familiar from the admirable representations of him which remain, by eminent painters and sculptors. The best portrait of him is by Hoppner, in the royal gallery at Windsor; and there is an admirable bust of him in Holland House, by Nollekens, with the inscription—

“Nostræ eloquentiæ forensis facili princeps.”

But the likeness of him which I regard with most delight is a statue, by Westmacott, in Lincoln's Inn Hall. This is the produce of a subscription eagerly made soon after his death by the members of that profession which he had so much adorned. The attitude is dignified and commanding; and although it was beyond the art of sculpture to convey any notion of that speaking eye which so much heightened the effect of the varying sentiments which proceeded from his lips, all the other features of his countenance are admirably portrayed, and still seem animated by the fervid genius which burned in the bosom of the original. I hope this statue may long exercise a salutary influence, not only on the young student who enters the Hall in the course of the discipline prescribed to him to qualify him for the Bar, but on all successful practitioners who come here to plead before the Lord Chancellor. Let it constantly remind them of the noble objects of our profession, and impress upon them the important truth,—that its highest rewards may be obtained without the sacrifice of honour or consistency.

CHAPTER CXCI.

LIFE OF LORD CHANCELLOR ELDON FROM HIS BIRTH TILL HIS
MARRIAGE.

HAPPILY, for myself and my readers, I approach the termination of my biographical labours—

—“nos immensum spatii confestimæ æquor
Et jam tempus æquum fumantia solvere colla.”

Only one deceased Chancellor remains to be recorded by me. I began with Augmentus, who in the seventh century was Chancellor to Ethelbert, the first Christian Anglo-Saxon king, and I have to finish with John Scott, Lord Eldon, who was Chancellor to George III. and George IV., and, having struggled to return to power under William IV., died in the reign of Queen Victoria.

I am now appalled by the difficulty of knowing too well the subject of my memoir, and by the consideration that it is to be read by surviving partisans and attached relatives of this great man. I often practised before him, and I was honoured with some notice from him in private;—but, unluckily, I took an interest in political strife for a large portion of the period during which he occupied the woolsack, almost uniformly differing from the principles which he professed;—and I afterwards actually held office under an Administration to whose measures he was violently opposed. Thus, with the advantage of personal observation, I have to encounter the suspicion of political enmity.

I have sufficient confidence, however, in my own impartiality to proceed with boldness; and while I trust that I shall not deal out praise to his merits with a niggardly hand, dread of the imputation of party bias shall not deter me from pointing out his defects, or censuring his misconduct.

We biographers generally make it equally redound to the credit of our hero, whether he be of illustrious or of humble parentage, saying, with the same complacency, “he was the worthy descendant of a long line of noble ancestors,” or “he raised himself by his talents, being the first of his race ever

known to fame." Although the latter glory undoubtedly belongs to Lord Eldon, an absurd attempt has been made to trace his pedigree to SIR MICHAEL SCOTT of Balwearie, in the county of Fife, who, in the fourteenth century, was one of the ambassadors sent to bring the "Maid of Norway" to Scotland, upon the death of ALEXANDER III., and who is celebrated for his magical incantations in the "INFERNO,"^a and in the "LAY OF THE LAST MINSTREL."^b He might with more probability have been connected with DUNS SCOTUS, the enemy of the *Thomists*, who undoubtedly was of a Northumbrian family; but the truth is, that both he and his brother Lord Stowell had much too great a share of good sense and good taste to set up an unfounded claim to gentility of blood. When they were rising in the world, and found it necessary to have arms,—the seal used by their father having had nothing engraved upon it except W. S., his initials,—after looking at the armorial bearings of the different families of the name of Scott, they accidentally chose the "three lions' heads crased, gules," formerly borne by the Scotts of Balwearie, and now the just boast of their representative, Sir William Scott of Ancrum. From the interesting "Sketch of the Lives of Lords Stowell and Eldon," by their relative Mr. Surtees, it appears quite clear that they could not go further back in their genealogy than their grandfather William Scott of Sandgate, who is said to have been clerk to a "fitter," and who, in the latter part of his life, himself became the owner of several "keels,"—a "fitter" being the person who buys and sells coals between the owner of the mine and the shipper, and who conveys them in "keels," or barges, from the higher parts of the Tyne to Newcastle or Shields, where they are loaded for exportation. Sandgate, an old street by the water-side, beyond the walls of Newcastle, bearing a great resemblance to Wapping, had long been connected with this trade,—as we learn from an ancient ballad, set to a tune well known through the North as the "Keel-row,"—of which the following is the first stanza:—

^a "Quell' altro che no' fianchi è così poco
 Michele Scottu fu, che veramente
 Delle magiche frode seppe il ginoco."
Inferno, canto xx.

That when to Salamanca's cave
 Him list his magic wand to wave,
 The bells would ring in Notre Dame."
Lay of Last Minstrel, canto ii.

^b "In these far climes it was my lot
 To meet the wondrous Michael Scott,
 A wizard of such dreadful fame,

I never heard the Chancellor accused of
 dealing in the black art; and I do not discover
 any resemblance between him and his sup-
 posed ancestor.

"As I came thro' Sandgate, thro' Sandgate, thro' Sandgate,
 As I came thro' Sandgate, I heard a lassie sing,
 Weel may the keel row, the keel row, the keel row;
 Weel may the keel row that my laddie's in."

This William Scott had a son William, who on the 1st of September, 1716, was bound apprentice for seven years to a coalfitter in Newcastle, with a fee of 5*l.*,—and whose indenture of apprenticeship is the first written muniment of a family destined to such distinction. The boy is here described as "son of William Scott of Sandgate, yeoman." This is not at all inconsistent with the representation that he had become a keel-owner, for "yeoman" did not necessarily mean, as we now understand it, "the cultivator of his own little farm," but simply meant "a householder of too poor estate to allow of his designation either as a gentleman or merchant, yet raised above the ranks of servile drudgery."^a The Scotts of Sandgate well exemplify the quaint definition which the venerable Fuller gives of this class: "The good yeoman is a gentleman in ore, whom the next age may see refined; and is the wax capable of a gentle impression when the Prince shall stamp it."

William, the younger, showed great prudence, steadiness, and shrewdness; and when out of his apprenticeship, becoming himself a "fitter," and commencing with the "keels" he inherited from his father, amassed considerable substance. To swell his profits, he is said at one time to have kept a sort of public-house, near the Quay at Newcastle, for the purpose of supplying his own keelmen with their liquor, on the principle of the truck system. He afterwards became a large ship-owner, and engaged in the maritime insurance then in vogue, called "bottomry." By "servitudo" he was entitled to the freedom of the town of Newcastle, which he took up on the 25th of August, 1724; and on the 7th of September, in the same year, he was admitted into the "Hoastmen's Com-

^a This is taken from a Fife song, which I was taught when a child:—

"O weel may the boatie row,
 That fills a heavy creel,
 And cleads us a', frae head to feet,
 And buys our parritch meal.
 The boatie rows, the boatie rows,
 The boatie rows indeed;
 And happy be the lot of a'
 That wish the boatie speed."

One stanza is particularly touching:—

"When Jamie vow'd he would be mine,
 And wan frae me my heart,
 O! muckle lighter grew my creel!
 He swore we'd never part.
 The boatie rows, the boatie rows,
 The boatie rows fu' weel,
 And muckle lighter is the ladie
 When love bears up the creel!"

^b Surtees, p. 3.

^c *Creel* is the basket in which the Scottish *poissardes* carry fish on their backs to market.

pany," which his sons used to observe was the most reputable in the whole corporation. He seems by his industry and frugality to have risen to high consideration among the trading community of his native town, although he mixed little in society, and read no books except his Bible and his ledger.

Aug. 1st, 1740. He married the daughter of Mr. Atkinson of Newcastle, a woman who was the model of all the domestic virtues, and of such superior understanding that to her is traced the extraordinary talent which distinguished her two sons, William and John,—Lord Stowell and Lord Eldon.

Their destiny was materially influenced by the chivalrous effort, in the year 1745, to restore the House of Stuart to the throne. If Prince Charles and his gallant band had not crossed the Border, William would never have been a Fellow of University College, Oxford, and in all probability John never would have been Lord Chancellor of Great Britain. Although William's birth certainly took place in the county of Durham instead of Northumberland from the advance of the rebel army to the Tyne, there are two representations of the circumstances attending his mother's flight previous to this event. According to the more romantic story, Mrs. Scott, dreading the violence of the Highlanders, about whom the most frightful rumours were spread,—when they approached Newcastle, resolved to hide herself in the country; but she found all the gates shut and fortified, and egress strictly interdicted to all persons of every degree; whereupon, although very near her confinement, she caused herself to be hoisted over the wall in a large basket, and descended safely to the water-side: there a boat, lying in readiness to receive her, conveyed her to Heworth, a village distant only about four miles from Newcastle, but on the right bank of the Tyne. Here she was delivered the same night of twins, William and Barbara.—But the following is the account of the affair by Mrs. Foster, a grand-daughter of Mrs. Scott, from whom she says she had heard it hundreds of times:—"My grandmother Scott being with child in the year of the rebellion 1745, it was deemed more prudent for her to be confined at my grandfather's country house at Heworth than in the town of Newcastle. She was therefore attended at Heworth by a midwife, who delivered her of a male infant (afterwards Lord Stowell); but some difficulty arising in the birth of the second child, a man on horseback was despatched

to Whickham for Dr. Askew, a medical practitioner of considerable eminence at that time. Dr. Askew not being at home, the man proceeded to Newcastle for Mr. Hallowel. When Mr. Hallowel reached the town gate, it was, on account of the Rebellion, closed for the night; and further delay becoming serious,—instead of waiting until permission was procured from the mayor for his egress, he was let down from the top of the town wall, on the south side, and proceeded immediately to Heworth, where he delivered my grandmother.”*

After the retreat of the Chevalier from Derby, by the western side of the island, she returned to her husband's house in Love Lane, Newcastle, and there, in ^{A.D. 1751.} 1751, on the 4th of June, the birth-day of George III., she produced her son John, the future Chancellor, who was likewise accompanied by a twin sister, and was baptized along with her at All Saints' Church on the 4th day of July following. Love Lane is a narrow passage between two streets—in Scotland called a “wynd,”—and in Newcastle a “chare,”—the lower extremity being there called the “chare-foot;” and Lord Eldon, who had always genuine delight in referring to native localities, used to amuse the Chancery Bar by declaring that “he ought not to complain of a small and inconvenient Court, as he was born in a *chare-foot*.”†

I find nothing remarkable related of our Chancellor's infancy—nor any omen of his future greatness—except that he showed he was born with the faculty of always *lighting on his legs*. His elder sister, Barbara, used to relate that “during one of their mother's confinements, Master Jackey being in her room in a go-cart, the nurse quitted her for something that was wanted, leaving the door open: away went Mr. Jackey after her, tumbling down a whole flight of steps; go-cart and all; but though his mamma, who was unable to get out of bed to stop him, got a dreadful fright, he took no harm, and was found standing *bolt upright* in the passage below.”

* Letter to the present Earl of Eldon, 14th June, 1840.—*Twiss*, i. 23.

† Mr. Twiss tells a story, that “at the Newcastle Assizes, in a case where a witness swore that at a certain time he saw three men come out of the *foot of a chare*, the Judge who tried the indictment recommended it to the jury to take no notice of

this evidence, as being obviously that of an insane person. The foreman of the jury, however, restored the credit of the witness by explaining that the *chare* from whose *foot* the three men had been seen to issue was not an article of furniture, but a ‘narrow street.’” Vol. i. p. 25.

He was taught to read by a master whom I suspect to have been a Scotsman, from his being called *Domine* Warden, and his mode of "*muffling* the consonants," in which I was myself initiated.^g But the success in life of both brothers is mainly to be ascribed to the admirable instruction they received from the Rev. Mr. Moises, master of the Free Grammar School at Newcastle,—under whom they laid in a large stock of classical learning, and acquired a habit of steady application, enabling them to overcome every difficulty which they had afterwards to encounter. The only thing that could be said against this zealous teacher was, that he was too much accustomed to mix his conversation with grave appeals to his conscience and his God—setting an example which at least one of his pupils very sedulously followed.

We have a striking illustration of "the boy being the father of the man," in an authentic account of the difference between the two brothers in their Sunday evening performances: "When asked to give an account of the sermon, their father's weekly custom, William would repeat a sort of digest of the general argument—a condensed summary of what he had heard; John, on the other hand, would recapitulate the *minutiae* of the discourse, and reiterate the very phrase of the preacher. He showed a memory the most complete and exact, but failed in giving the whole scope and clear general view of the sermon, embodied in half the number of words by the elder brother."^h Lawyers immediately conceive themselves first delighted with a judgment of Lord Stowell, in Robinson's Reports, and then toiling through one of Lord Eldon, in Vesey, junior.

Although we know that John Scott, under Mr. Moises, was extremely diligent and well-behaved, and a prodigious favourite with his master,—when an ex-Chancellor, he used to relate anecdotes of his boyish days which would rather represent him as having been a *pickle*. "I remember," he said, "my father coming to my bed-side to accuse Henryⁱ and me of robbing an orchard, of which some one had come to complain. Now my coat was lying by my bed with its pockets full of apples, and I had hid some more under the bed-clothes when I heard my father on the stairs, and I was at that moment suffering intolerable torture from those I had eaten.

^g According to this mode of teaching the alphabet, a vowel is placed before, instead of after, the consonant

^h Townsend's Life of Lord Stowell.
ⁱ Henry was another brother, who succeeded to his father's business.

Yet I had the audacity to deny the fact. We were twice flogged for it, once by my father, and once by the school-master. I do not know how it was, but we always considered robbing an orchard—'boxing the fox,' as we called it—as an honourable exploit. I remember once being carried before a magistrate for robbing an orchard. There were three of us, and the magistrate acted upon what I think was rather a curious law, for he fined our fathers each thirty shillings for our offence. *We* did not care for that, but then *they* did: so my father flogged me, and then sent a message to Moises, and Moises flogged me again."

He used to relate, likewise, how he was flogged for going without leave to Chester-le-Street, a place eight miles off, to buy "short-cake," for which the place was famous, and staying away a whole night—and again for the offence of playing truant three days from the writing-school, aggravated by a declaration to his father that he had been there punctually every day;^k—how he possessed the art of blowing out the candles in the shops, and escaping detection;—and how, having lost his hat in a scuffle, his father made him go three months bare-headed, except on Sundays. He gave a very entertaining account of the manner in which his father applied the *twos*, or ferula, in the family, till this instrument of punishment was stolen by the children;^m and of the distinguished manner in which he danced hornpipes at the annual Christmas ball given by his father to the keelmen. But, above all, he dwelt with complacency on his early gallantry: "I believe," he would say, "no shoemaker ever helped to put on more ladies' shoes than I have done. At the dancing-school the young ladies always brought their dancing-shoes with them, and we deemed it a proper piece of etiquette to assist the pretty girls in putting them on. In those days, girls of the best families wore white stockings only on the Sundays, and one week-day, which was a sort of public day: on the other days they wore blue Doncaster woollen hose, with white tags. We used, early on the Sunday mornings, to steal flowers from the gardens in the neighbourhood, and then we presented them to our sweethearts. Oh! those were happy days—we were always in love."—It might be

^k Yet he wrote a most beautiful hand, which he retained to extreme old age.

^m The taws were preserved by Henry; and, after the father's death, were produced

annually when the brothers met at Newcastle, and talked over, with glee and triumph, the exploit of stealing them.

presumed that he had peculiar pleasure in helping the sweet Elizabeth Surtees to put on her dancing-shoes, and that he presented to her the most beautiful flowers: but this was not the fact; for he had not yet seen his destined bride.

In the midst of these wild pranks, which he took pleasure in exaggerating in his old age, he made great progress in his studies, and, while yet in his fifteenth year, he was not only a good classical scholar, but he was pretty well exercised in English composition—often so sadly neglected. He would afterwards occasionally regret that he had not had the advantage of being at Eton or Westminster. Talking of his illustrious class-fellow Lord Collingwood, he once said, “We were placed at that school because neither his father nor mine could afford to place us elsewhere;” but he related that George III. expressing his surprise how a naval officer could write so excellent a despatch as that which contained Collingwood’s account of the battle of Trafalgar, his Majesty suddenly added, “I forgot that he was educated under Moses.” And it is pleasing to think that Lord Eldon always retained a grateful and affectionate recollection of the High School of Newcastle. At the commencement of his “Anecdote Book,” written by him for the amusement of his grandson, he says: “The head master was that eminent scholar and most excellent man, the Rev. Mr. Moses. I shall hold his memory in the utmost veneration whilst I continue to exist.”—In one of the last judgments which he delivered in the Court of Chancery, respecting a grammar school, he observed, “I remember that when I had the benefit of an education, at one of those grammar schools, the boys were headed by their venerable master to church constantly upon Sundays, and *that* part of the duty of a master of a grammar school was, in those days, as much attended to as teaching the scholars what else they ought there to acquire.”—Jack Scott did not hold the Great Seal more than two days before he gladdened the heart of his old preceptor by appointing him one of his chaplains, and he afterwards pressed upon him high preferment in the Church, which was modestly declined.—Finally, several years after the death of Mr. Moses, Lord Eldon wrote the following very amiable letter to the Rev. J. Brewster, of Egglestoncliff, in Durham, who had been a class-fellow, and had sent him the copy of a Memoir, which he had privately printed, of their beloved preceptor:—

"DEAR SIR,

"Pardon me if* my engagements have made me too dilatory in acknowledging your kindness in sending me your Memoir of the late Master of the Grammar School in which we were both educated. It has highly gratified me to find that the public are in possession of such a record of that excellent person's merits and worth. I feel the obligation I owe you for the mention of my name in that work. Throughout a long life, in which it has pleased God to confer upon me many blessings, I have always deemed it one of the most valuable that I had in the earliest period of my life the benefit of being educated under Mr. Moises.

"I am your obliged servant,

"ELDON.

"Lincoln's Inn Hall, Wednesday, Aug. 20, 1825."ⁿ

In the spring of the year 1766 the worthy hostman began to deliberate seriously respecting the way of life by which his son John was to earn his bread, and after due deliberation resolved to bind him apprentice to his own trade of a coal-fitter. He did not think it necessary to care much about the boy's own inclination; but, before preparing the indentures, he wrote to his eldest son William, then at Oxford, to inform him of his intention. Several years ago, this wonderful youth, when only sixteen, taking advantage of the accidental place of his birth, had gained a Durham scholarship at Corpus Christi College, and afterwards a Durham fellowship at University; and he enjoyed so high a reputation, that before he had completed his twentieth year he was appointed College tutor. Thinking that his youngest brother was capable of higher things than buying and selling coals, and having much affection for him, he wrote back to his father, "Send Jack up to me; I can do better for him here." Accordingly, in the beginning of May, 1766, Jack was packed off for London in the Newcastle stage-coach, which, by reason of what was then considered its rapid travelling, was called the "Fly"—seeing that it was only three nights and four days on the journey; its panels bearing the modest inscription, "Sat cito, si sat bene."

ⁿ By the kindness of my friend Mr. W. E. Surtees, I am in possession of a copy of this interesting memoir. Not only Lord Eldon and Lord Stowell, but Lord Collingwood, and several other very distinguished Northumbrians, were flogged into greatness by Moises.

When the master of a public school is at once a fine scholar and an enthusiast in teaching, he is one of the most useful, and ought to be one of the most respected, members of society.

Our young traveller amused himself by the way in making jests on an old Quaker, who was his fellow-passenger. When the coach stopped at the Inn at Tuxford, *Aminadab* desired the chambermaid to come to the door of the leathern conveyance, and gave her a sixpence, telling her that he forgot to give it to her when he slept there two years before. *Scott*. "Friend, hast thou seen the motto on this coach?"—*Quaker*. "No."—*Scott*. "Then look at it, for I think that giving her only sixpence now, for all she did for you two years ago, is neither *sat cito* nor *sat bene*."—He afterwards moralised this motto, and used to say: "In all that I have had to do in life, professional and judicial, I always remembered the admonition on the panels of the vehicle which carried me from school, *Sat cito, si sat bene*. It was the impression of this which made me that deliberative judge—as some have said, *too* deliberative—and reflection upon all that is past will not authorise me to deny that whilst I have been thinking *sat cito, si sat bene*, I may not have sufficiently recollected whether *sat bene, si sat cito*, has had its due influence."

His brother William was waiting to receive him at the White Horse in Fetter Lane, Holborn, and treated him to the play at Drury Lane, where he saw "The Devil to Pay," Love acting Jobson, and Miss Pope Nell. On the 15th of May, 1766, he was matriculated as a member of the University of Oxford, by Dr. Durell, th Vice-Chancellor, and the same day signed the following form of admission to University College:—"Ego Johannes Scott, filius natu minimus Gulielmi Scott, Generosi, de Novo Castro super Tinam, in Com. Northum. libens subscribo, sub tutamine Domini Scott, annos natus circiter quindecim." Though with a mind well cultivated, his manners were rather rustic; he spoke with a strong Northumbrian accent; and his stature was short, even for his tender years. Lord Stowell used afterwards to say, "I was quite ashamed of his appearance,—he looked such a mere boy."

After he had been a few weeks at Oxford, the Summer vacation arrived, and, returning to Newcastle, his father very judiciously, though much against the lad's inclination, replaced him, till the following term, under Mr. Moises, at the Grammar School,—where he was obliged to construe with his old schoolfellows, but was exempt from the discipline of the rod; so that he had no occasion to complain, with Milton,—

A.D. 1766.

"Nec duri libet usque minas perferre magistri,
Cæteraque ingenio non subeunda meo."

He at this time went, among his townsmen, by the name of the "Oxonian;" rather, it would seem, derisively, from his puerile appearance, than out of respect to his new dignity.

In October he returned to Oxford, and continued to reside there, as an under-graduate, above three years. It ^{July 11,} has been stated, as a proof of his wonderful proficiency, that when he had just completed his sixteenth year, he was elected a fellow of his college; but he himself, with his usual candour, ascribed this promotion entirely to his brother, good-humouredly saying, "His birth in the vicinity of Durham qualified him to be a candidate for the fellowship in Oxford which he afterwards obtained, and his influence in that station procured for me the fellowship in Oxford which I afterwards obtained. These fellowships were of great use to both of us in our future success in life - and although we have ever been steadily attached to the THRONE, it may truly be said that 'we owe every thing to REBELLION.'"

Under the admirable tuition of his brother, he attended rather more to learning than was then usual at Oxford, and he was very regular in his habits; but he showed no enthusiasm in study, and he looked no higher than to qualify himself for what he considered his destination—to be the incumbent of a college living. Now he contracted the orthodox relish for port wine, to which he ever after adhered; and, from his strong head and robust constitution, he could with almost entire impunity imbibe a portion of this generous liquor which weaker men found to disturb their reasoning powers, and render them martyrs to the gout.

The most stirring emulation among the gownsmen at Oxford seems to have been to make bad puns. Some of ^{A.D. 1767-1770.} these he used to repeat with glee, as if they had been his own composition. "The drinking-cups, or glasses, from their shape, were called *ox-eyes*. Some friends of a young student, after inducing him to fill his *ox-eye* much fuller and oftener than consisted with his equilibrium, took pity at last upon his helpless condition, and led or carried him to his rooms. He had just Latin enough at command to thank them at 'he stair-head with 'Pol, me *ox-ey*, distis, amici.'"—"Windham, then an under-graduate, hated a pun, good or bad. Reading Demosthenes one day with great admiration, and coming to *Τέθνηκε Φίλιππος*; (Is Philip dead?) *Ὁὐ, μὰ Δι'*

(No! 'by Jupiter!) he was put into a great passion by a fellow-student saying, 'No, Windham, you see he is *not dead*; the Greek words only say he *may die*.'—"The Vice-Chancellor, Dr. Leigh, of Balliol, a determined punster, having given offence to the young men by some act of discipline, when he next appeared among them he was saluted with much sibilation; whereupon, turning round, he said, '*Academiei, laudamur ab his?*' which produced a change in his favour, and they loudly applauded him."—Smoking was common in those days, and a Fellow secretly indulged even in the habit of chewing tobacco. Having once inadvertently squirted near the master's niece, who was passing by, he was thus admonished, "*Ne quid nigh Miss*."—"A clergyman who had two small Corpus livings adjoining each other, NEWBURY and BIRURY, and who always performed the morning service in the former and the evening in the latter, being asked in the Hall why he did not divide the duties equally between them, made answer, 'I go to *nubere* in the morning because that is the time to *marry*; and I go to *bibere* in the evening because that is the time to *drink*.'"—"When I was an undergraduate, I was skating on Christ Church meadow, and the ice breaking, I was let into a ditch up to my neck in water. I scrambled out, but was dripping from the collar, and oozing from the stockings. A brandy-vender, seeing my pitiable plight, shuffled towards me, and recommended a glass of something warm; upon which Ned Norton, of our college, a son of Lord Grantley, sweeping past, cried out to the retailer, 'None of your brandy for that *wet* young man; he never drinks but when he is *dry*.'"^o

The approach of the time when John Scott was to be examined for his bachelor's degree caused him no trepidation. A form of examination was gone through,—but the term "double-first" had not yet been heard of on the banks of the Isis, and *plucking* was unknown. The following is the account, in his own words, of the trial he went through to test his proficiency:—"I was examined in Hebrew and history. 'What

^o The proper pendant to this joke is that of the old Scotch woman, who, upon an unpopular preacher coming into her house after being exposed to a heavy shower of rain, and asking leave to dry himself at her fire, advised him "to go into the *poopit*, where he would be sure to be *dry enough*."

Lord Eldon was soon cured of the punning propensity; but it adhered inveterately to

his class-fellow and brother-in-law, the Rev. Dr. Ridley, afterwards prebendary of Gloucester,—a most good-humoured, worthy man, from whom I had many excellent dinners when I attended the Gloucester Sessions and Assizes; paying, however, sometimes rather dear for them, by being obliged to laugh at his bad puns.

is the Hebrew for the *place of a skull*?' I replied 'Golgotha.' 'Who founded University College?' I stated (though by the way the point is sometimes doubted) 'that King Alfred founded it.' 'Very well, Sir,' said the Examiner, 'you are competent for your degree.'" Accordingly, on the 20th of February, 1770, it was duly conferred upon him.

He did not then, according to modern custom, leave the University, but continued in its classic bowers to prosecute the studies which should qualify him for being a Master. Under his brother's advice he wrote for the prize lately established by the Earl of Lichfield, Chancellor of the University, for the best composition in English prose—the subject being "The Advantages and Disadvantages of Foreign Travel." The essay with the motto "*Non alibi sis, sed alius*," June, 1771. was decreed to be the best, and this was found to have for its author JOHN SCOTT. His success gave much delight to his brother, but still more to his old preceptor, who, having heard the joyous news, rushed into the school with a copy of the prize essay in his hand, saying to the senior lads,—“See what John Scott has done!”^p It has been published in "Talboys' Collection of Oxford English Prize Essays," and is certainly very creditable to a Northumbrian of twenty, who had never travelled except in the country between the Tyne and the Thames, but is much inferior to the "Athenian Letters" written at the sister university by younger men. He seems to have formed his style on the model of Dr. Johnson, who was then worshipped by Oxonians, although in former times they had refused him a degree. We might suppose that we were beginning an indifferent Rambler:—

"There are few principles of action which have been more immediately beneficial to society, and which therefore merit more assiduous cultivation, than the love of our country. But, whilst we have been studious to regard our parent with the tenderness of filial affection, we have imbibed the weak prejudices of children, and, like the undiscerning lover, have fondly gazed without discrimination upon her beauties and her deformities. He who over-rates his own merits, will probably undervalue the deserts of others. From this arrogant conceit of our worth as a people, has sprung that uncharitable opinion which confines excellence to the boundaries of a small island, and, with the true spirit

^p "Mr. Moises afterwards, when any of his boys did well, would give them this qualified praise: 'Well done, very well done! but I have had lads that would have done better;—the Scotts would have done better than that.'"—*Twiss*, l. 45.

of ancient Greece and Italy, has adjudged every other people to be comparatively barbarous. This illiberal idea, it is confessed, has been attended with salutary consequences: it has aroused the soul of the warrior, and by teaching the brave defenders of our country to despise, it has taught them to conquer, their enemies."

Thus he contemplates a visit to the "Eternal City:"—

"Amidst a variety of objects which will challenge the attention of the traveller, few will prove more copious sources of delight, or supply him with ampler matter for useful reflection, than those awful monuments of ancient industry and power, which seem to have been hitherto preserved as memorials of a destructive luxury, the havoc of which was felt when the shocks of time were yet imperceptible. How must the British statesman feel for his country when he surveys the venerable ruins of a senate which stood secure till gold was accepted as an equivalent for freedom, and the Roman legislature, softened by pleasure, embraced the shackles of slavery! Whilst the eye is ravished, the mind cannot be unemployed, but recurs to the virtues which established, and the vices which overthrew, the grandeur it surveys."

The superiority of modern Italy in painting and sculpture he thus patriotically scorns:—

"He who has not a single right to protect, may endeavour to render his servitude supportable by studying the arts of politeness; but let not the Briton be taught to leave his distinguishing privilege—his liberty—without defence, whilst he affects these elegant improvements!"

Afterwards, in pointing out the danger of exchanging prejudice *for*, to prejudices *against*, our country, he introduces some "protectionist" sentiments, which, together with his dislike of the Roman Catholics, and his support of the severe criminal code, make his memory precious to his indiscriminate admirers:—

"To this only can we attribute a prevailing passion for foreign productions, which, as it deprives our own artists of the rewards of their industry, claims and withholds from our manufacturer every encouragement which can animate his labours."

He gracefully concludes with a compliment to his ALMA MATER:—

"Where, then, shall we seek a remedy? Must it not be in that education which watches over the morals with the strictest vigilance, and, by fortifying the mind with the soundest principles of religion, enables it to pursue with safety those inferior accomplishments whose

* only merit is to heighten the beauty of virtue, and which become truly dangerous when they soften the deformities of vice?"

I concur in the candid and discriminating criticism on this Essay by Mr. Surtees: "Its matter and arrangement indicate the possession of strong sense by its writer, together with a disposition to heap conflicting doubts into each scale, and then to watch with delight the trembling of the uncertain balance; but there is not to be found in it an originality of thought or imagination which can entitle it to the highest praise; namely, that it is a work of genius." For the honour of the order of lawyers, for which I am always solicitous, I am afraid that, although Lord Eldon was the greatest Chancellor that had appeared since Lord Hardwicke, and enjoyed such a splendid reputation in Westminster Hall, he could hardly have made his bread by literature, and he would have been of small account in Paternoster Row.

In his hour of victory he was not only modest, but shame-faced. Sixty years later he was reminded by the Bishop of Clonfert of his embarrassment in the vestibule of the Shelden theatre: "I," said the venerable prelate, "recited my prize poem first; and when I came out, you hesitated so much about going in, that I actually had to take you by the shoulders and push you in." But to this triumph Lord Eldon, in his old age, would often revert with honest pride and pleasure; dilating on the increased confidence he acquired by it, and the encouragement it afforded him in his future exertions.

We have a more favourable specimen of his English style in a letter (his earliest extant) written by him from Newcastle to his class-fellow, Henry Reay, from whom he seems to have received a tedious account of a tour in Cheshire. After some introductory matter, he proceeds thus in merry vein:—

"With what modest diffidence, then, shall I enter upon the laborious task of describing this place of my residence!—a task I should not undertake (so unequal are my shoulders to the weight) unless to oblige you, my friend, by giving you such a description of Newcastle as may enable you to form a clear and distinct idea of this town, though you never saw it. Say, Muse, where shall I begin? At the bridge? This is an elegant structure of thirteen arches. The battlements are beautified with towers, houses, &c.; and, what is a very extraordinary circumstance, it is built over a river. From hence you proceed to the *Sandhill*. Here you have presented to your view the *Exchange*, and *Nelly's*,

Katy's, and *Harrison's* coffeehouses; from the windows of which you observe the operations of shaving, turnip and carrot selling, and the fish-market—if you turn your eyes that way. The quay is reckoned one of the best in England. The water makes the prospect very agreeable; and there is no deficiency of wood, in the shape of planks, tar-barrels, and trees of that kind. At the east end of this, passing through a magnificent arch, you come to a street called *Sandgate*, which, whether you consider the elegance of the buildings, or the number of the inhabitants, or that strict regard they pay to decency, is equalled by none in the kingdom."

So he goes on describing the dirt and misery of his native place—well known to his correspondent.

Notwithstanding such sallies,—now in his *baccalaureate* state he considered himself irrevocably destined to the Church—and, if in an ambitious mood, he would dream of being a dean or a prebendary, but in his ordinary frame of mind he looked no higher than a snug rectory or vicarage—anticipating with pleasure and contentment the *jucunda oblivia vitæ*. And there can be little doubt that he would have ended his days as a country parson, recorded only by some annalist, like "P. P., clerk of this parish," had it not been for an imprudent step, which at first was thought to be his utter ruin, but which, changing the whole colour of his life, in its consequences made him a millionaire, an Earl, Lord Chancellor for a quarter of a century, a prominent character in history, and the founder of one of the most distinguished families in the peerage of England.

On a foggy morning in the month of November in the following year, Mr. Moises, with a very different
A.D. 1772. countenance from that which he wore when announcing the prize essay, rushed into the school, beating his breast and exclaiming, "Jack Scott has run off with Bessy Surtees! The poor lad is undone! the poor lad is undone!"

I have now a love story to relate. But I must not say—

"How can I name love's very name,
 Nor wake my heart to notes of flame?"

I must remember that—not a minstrel pouring forth the unpremeditated lay—I am "a sad apprentice of the law"—chronicling the Life of a Lord Chancellor.

It has already been seen that my present hero had a very inflammable fancy. Romeo had been attached to Rosaline before he beheld Juliet, and "Miss Allgood, daughter of Sir

Launcelot Allgood," said Lord Eldon, "was my first love; but she was scornful." While smarting from her disdain, it happened that as he was travelling he accidentally entered during divine service the fine old Gothic church at Sedgfield, a pretty village in the county of Durham,—and there for the first time he beheld his future wife, then a blooming girl of sixteen, in company with an old maiden aunt. He instantly fell in love with her, and learned to his great surprise that she was the daughter of his townsman, Aubone Surtees, the banker. The Surteeses holding their heads rather high in Newcastle, she had not been allowed to go to the dancing school,—or Jack Scott must often have helped her to put on her shoes, and have presented her with a nosegay. But they, quoting Camden, who says "Rivers have imposed names to some men as they have to towns situated on them, as the Old Baron *Sur Tuys*, that is *on the river Tuys*,"—claimed to be a younger branch of the family of Surtees of Dinsdale, in Durham, on the banks of the Tees, who held the barony of Gosforth in the reign of Henry I.; and they did not stoop to a visiting acquaintance with the Scotts,—BANKERS and COAL-FITTERS being considered the opposite extremes of the trading world. John Scott contrived to be introduced to the aunt, who lived close by, and so made acquaintance with the niece. Being then a tall, handsome young man, with black eyes, regular features, and most pleasing manners, he made an auspicious impression upon her; and the fame of his prize essay, with which Newcastle had rung, no doubt helped the prepossession in favour of an admirer of whom she had heard so much, and who was supposed to be such a credit to the place of his nativity. He stayed a few days at a small inn at Sedgfield, and before he left the village they had plighted to each other their mutual troth.

When she returned to Newcastle, he was not permitted to see her at her father's house, but they had flirtations on the Shields road, where she used to ride, attended only by a man-servant, who was bribed to silence by an occasional half-crown. "The riding scheme," says Mr. John Surtees, her brother, "began in this way: Sir William Blackett, popularly called the King of Newcastle, then I suppose seventy years of age, used to lend Lady Eldon a handsome pony, and to accompany her on horseback. He was called to London to attend Parliament, and died soon after. She, riding one of my father's horses, continued her rides as before, and Lord Eldon

tused, I believe, to meet her." He then goes on to state, that although Sir William Blackett might have intended to court her, "she never considered him in any other light than that of a benign old man who was kind to her."

Miss Surtees came out at a Newcastle ball, given on the 1st of September, 1771, on the occasion of a visit paid to that town by Henry Duke of Cumberland, brother to George III. John Scott was there, but he did not venture to ask her to dance,—and, to conceal his new passion, he wrote to his friends as if he had still been under the sway of Miss Allgood. In a letter sent by him next morning to Mr. Bray he says, "The ladies are, as we supposed, half mad about the Duke of Cumberland. Miss Surtees and my dear Bell, it seems, were frightened out of their wits when he danced with them." However, at the next weekly assembly he contrived to dance with his new Dulcinea, and the ice being broken, he openly paid her marked attention. Recollecting these scenes, he said in his old age to his grand-niece, Miss Foster, "At the Assembly Rooms at Newcastle there were two rooms and a stair-head between them, so we always danced down the large room across the stair-head, and into the other room. Then you know, Ellen, that was very convenient, for the small room was a snug one to flirt in."

These flirtations gave rise to much gossip in the town of Newcastle, and the families of both parties became well acquainted with the devoted attachment of the enamoured pair. The Scotts very much regretted Jack's entanglement; but as the young lady herself was so charming, and her family was so respectable, they would not forbid the match, although they strongly counselled delay. Thus wrote Mr. William Scott to his father:—"In a letter from Jack I find that you are now fully acquainted with the affair between Miss Surtees and himself, and that you are kind enough to forgive any indiscretion which a rigid prudence might perhaps condemn. I must own I am clearly of opinion, that, in consenting to his wishes, you act with a true paternal regard to his happiness, which, as far as I can judge from my own experience, would not be much promoted by a long continuance in college. The business in which I am engaged is so extremely disagreeable in itself, and is so destructive to health (if carried on with such success as can render it at all considerable in point of profit), that I do not wonder at his unwillingness to succeed me in it. The kindness of his friends, therefore, would be

very judiciously employed in providing for him in some manner more agreeable to his own inclinations, and more consistent with his health. The purchase of a next presentation to a living is the most obvious way of giving him an early settlement. If you determine upon this method, the sooner we make the necessary inquiries the better. If you will give me leave, I will endeavour to procure what information I can."

The Surtees family, on the other hand, were most hostile to the proposed union. Their pride was hurt by stories about the public-house kept by old Scott for his keelmen, and they expected their daughter, who was such a beauty, to make some splendid alliance. Not only had she engaged the affections of old Sir William Blackett, the member for the town, but Mr. Spearman, a young gentleman of considerable landed property in the county of Durham, and of great talents, although a little eccentric and flighty, and Mr. Frington, with a large estate in Northumberland, and of respectable character, had already proposed to her, and had been rejected, for the sake of Mr. John Scott.

Mrs. Surtees had been a Miss Stephenson, and she had a brother, Mr. Henry Stephenson, who was very rich, with a splendid mansion in Park Lane, a country-house at Taplow in Berkshire, and a daughter, an only child. It was therefore resolved, that, to cut off all intercourse between Elizabeth and the coal-fitter's son, she should be sent to spend some months with her relations in the south—a hope being entertained that she might be noticed by the Duchess of Northumberland, and that, being so advantageously introduced into society, she might produce a sensation in the metropolis—a strict injunction being given that no intercourse, by word or letter or signal, should be allowed to her with Mr. John Scott. The old hostman, hurt by this proceeding, likewise ordered Jack to think no more of Miss Surtees.

*"Sed vetuere patres, quod non potuere vetare.
Ex equo captis ardebant mentibus ambo."*

The eager lover followed his mistress to London, and there, meeting his cousin Reay, who was his confidant, contrived measures for seeing her. She was noticed, as had been expected, by the Duchess of Northumberland, who would sometimes take her by the arm at Northumberland House, and present her to the guests as "my Newcastle beauty." "The

fellow of University" had then no means of introduction to the gay societies which she frequented; but he went to a masquerade, to Ranelagh, and to the Opera-house, in the vain hope of descrying her.⁹ At last, by watching in Park Lane, he traced her to Hyde Park, and on several occasions, as she was walking there with a female companion, he contrived to have interviews with her—when they renewed their vows.

Being obliged to return to Oxford, he wrote the following letter to Reay, who remained in London:—

"MON CHER AMI,

"After being almost choked with dust, and suffering other inconveniences too numerous to be related, we at length arrived once more upon this classic ground. Sad exchange, of Ranelagh for the High Street,—of dominos for gowns and caps,—of a stroll in Hyde Park, *comitante Surtesiù*, for a trot up the hill with the *bussar*! For your satisfaction, however, give me leave to inform you, that we both enjoy health of body, though strangers to peace of mind, and wear clean shirts, though we have not a guinea! As Fisher and I were reduced to a melancholy duet by the departure of Haverfield, we found no small pleasure in having an accession to our party by the arrival of Ridley and Young. As the latter has not opened his mouth nor his eyes since he came, though to my certain knowledge the bell has rung thrice a day, we yet consider ourselves as but a trio. Harry, whom Nature formed in a very philosophic mould, and endued with such a seeming indifference to *place*, that one should conclude she intended him for a citizen of the world, expresses but little regret upon the occasion, and accommodates himself with great facility to the collegiate plan. How happy would it be for those who are doomed to drag on a few more years here, if they could acquire this blessed versatility, and thus calmly acquiesce in what they cannot avoid!

"I was about to begin my lamentations upon the invisibility of a certain fair one, but I am determined to check my inclination. If I do not take the advice contained in that salutary aphorism, '*Obsta principiis*,' the subject is so favourite an one, the theme so much my darling, that I generally forget that there is something impertinent in *boring* others upon topics indifferent to them, however interesting to yourself. If you have experienced this from me, I know you will make charitable allowances. I confess my weakness, and will guard against it.

"The Count of the Flaxen Empire intends visiting this seat of literature: I shall have the honour, I suppose, of escorting his mightiness around this place. His Burgundy must suffer for this in the long

⁹ While at the latter place, it is said that he fell asleep,—and he used to say that he when the hope of discovering his *inamorata* found it "*opera atque labores*." was gone, taking no pleasure in the music, Mr. Anbone Surtrees.

vacation. As to the dear little tigress of Taplow, I will not flatter myself with the hopes of seeing her, where a disappointment is so probable.

"I had some thoughts of delivering your compliments to the Countess of the Hill *en passant*, but I was deterred by considerations of propriety, nor was I certain how far the awkwardness of a fellow of a college might have been detrimental to the interests of his friend with the lady.

"Come in !—'tis the little barber ; which puts me in mind that I left the gentleman of Tanfield Court without paying him. It was his own fault ; however, pray inform him that after our next charity sermon, he shall have his share of the collection : *i. e.* when I come to town again I will pay him ; or, if he is in any great hurry for the cash, if you will ask him what sum his honour will be satisfied with, I will send it him by the first opportunity.

"Pray remember me to Bunney, Lane, etc. ; and if invisibility become visible, then remember me, who am, with great sincerity,

"Your affectionate friend,

"J. SCOTT.

"Univ. Coll., Wednesday."

It is said that "*Invisibility* did become *visible*," and that, travelling from Oxford in the night, at sunrise he had the happiness of some rencontres with the dear little tigress in the shady lanes near Taplow ; but this rests on no sufficient authority.—The London season then ended in May ; and after it was over she continued for some months in this charming retreat, along with her fair cousin, under a pretty strict *surveillance*. We have pleasing portraits of the young ladies as they appeared at this time, by Mr. W. E. Surtees. "Of the two cousins, Miss Surtees was the elder by some three years. Her figure was slight, and of a short middle size ; her hair, of the deepest brown, streamed in rich ringlets over her neck. From her mother (the beauty of a preceding generation) she had inherited features of exquisite regularity, as well as a strongly marked character, and a warm temper. Miss Stephenson, though yielding nothing in beauty to her cousin, had features somewhat less symmetrical. The mouth, of an infantine simplicity, but as sweet as that of a smiling infant, indicated more of pliability and less of individual character."

* The Lady Mary O'Bryen, Countess of Orkney in her own right, who resided at Taplow Court.

† He afterwards says,—“She, too, had an

early attachment ; but this, in accordance with the more ambitious views of her parents, she was induced to forgo, and she became the bride of the Earl of Mexborough. In

Miss Surtees returned to Newcastle in the autumn. We are informed of few particulars till the catastrophe which I am now about to narrate; but we know that a renewed offer of a very advantageous match was made to her,—that her parents strongly pressed her to accept it, thinking that her childish predilection had been effaced by absence;—that they expressed high displeasure when she talked of fidelity to her engagement,—and that they peremptorily told her she must comply with their wishes. John Scott being then at Newcastle, she contrived a meeting with him; and, when she had stated the force that was put upon her inclinations, he proposed, as the only resource remaining to them, that she should run away with him. She blushed and consented.

“The house in which Mr. Surtees lived was a very large old-fashioned building, in a row of houses called *Sand-hill*, which fronts towards the town hall, the *Exchange*, and the river. The ground floor was occupied by the shop and warehouse of a Mr. Snow Clayton, an extensive clothier; but between the shop and the rest of the house there was no communication, each having a separate entrance.—Mr. John Scott had an early friend of the name of Wilkinson, and to him he confided a plan for an elopement. Wilkinson, who was a young man of some small independence, which he contemplated investing in trade, had apprenticed himself to Clayton the clothier; and, as Clayton’s shop was under Mr. Surtees’s residence, his apprentice must have possessed peculiar means of facilitating the escape.—The night of Wednesday, the 18th of November, 1772, was that selected for the elopement. At that time the garrison within the house at *Sand-hill* was weakened by the absence of Mr. Surtees’s eldest son, William, who was on a visit of a few days’ duration to some friends. He had been the schoolfellow of Mr. John Scott, and, being nearly of the same age, would, if at home, have been very capable of either intercepting a flight or leading a pursuit.—Wilkinson was faithful to Scott in aiding and abetting the enterprise, and is supposed to have materially assisted him by concealing a ladder in the premises of

her hey-day, Almack’s brightened at her smile; and there, also, in age was she seen with cheeks where art had vainly tried to retrieve the faded bloom of nature, and restore the rosy light of youth. She was a ruin, from the otherwise serene beauty of whose aspect much was detracted by the in-

judicious introduction of parterres filled with Spring’s gayest flowers; but still, as it was said of her by one who could even then find sufficient traces of pristine brightness to command homage, she was ‘*the finest ruin in England.*’” (p. 10.)

Mr. Clayton below. A ladder, probably produced by Wilkinson, was placed against the most westerly window of the first floor; and down it Bessy Surtees, *‘with an unthrift love,’* descended into the arms of John Scott.”*

The young lady behaved most heroically; and, after great peril of being discovered and stopped, they reached a post-chaise which was in waiting for them. Instead of driving to Gretna Green and soliciting the aid of the blacksmith, they took the road by Morpeth to Coldstream, and “over the border and away;” they next morning reached the village of Blackshiels, close to Fala, only two stages from Edinburgh. Here they halted, and were married by the Reverend Mr. Buchanan, who was not, as has been often said, “the established Presbyterian minister,” but the clergyman of an Episcopal congregation at Haddington.*

The following is the certificate of this marriage, which Lord Eldon had carefully preserved, and which was found among his papers after his death:—

“John Scott, of the parish of All Saints, Newcastle-upon-Tyne, gentleman, and Elizabeth Surtees, of St. Nicholas parish, in the same town, spinster, were married at Blackshiels, North Britain, according to the form of matrimony prescribed and used by the Church of England, on this 19th day of November, 1772, by

“J. BUCHANAN, Minister.

“In pre- } JAMES FAIRBAIRN.
sence of } THOMAS FAIRBAIRN.”

As soon as the ceremony was performed and duly recorded, the bride and bridegroom set off on their return for their own country, meaning to pass the wedding-night at Morpeth. When they arrived there, late in the evening, they found that a fair was holding in the town—a circumstance they had not

* W. E. Surtees, pp. 11—13, from “original sources of information.” The faithful friend, so useful in this emergency, dying in 1801, Lord Eldon, in a letter to Remy, thus feelingly commemorates him: “Before I say a word about other matters, let me leave one sigh over James Wilkinson! It was but yesterday that we three were engaged in the follies of childhood and the sports of youth. The period which has since passed seems short,—how short, in all probability, must that appear, then, which is yet to pass before we shall be gathered together again!”

* The canons of the Church of Scotland are extremely strict about marriage, requiring a proclamation of banns and the intervention of a minister, although, for civil purposes, marriage is constituted by consent of the parties in the presence of any witness.

The circumstance of Mr. Buchanan usually residing at Haddington has induced others to represent this town as the scene of the marriage. How he came to be at Blackshiels, and how the runaway couple were introduced to him, I have not been able to ascertain.

noticed as they had hurried through in their journey to the north—and that all the inns were full. However, their peculiar situation becoming known, Mr. and Mrs. Nelson, of the Queen's Head, good-naturedly gave up their own room to the new-married couple.

Great had been the consternation at Newcastle, caused by their flight. Jane Scott, John's twin sister, had been his confidante; and when she went to bed on Wednesday night she burst out a-crying, saying to her sister Barbara, "Oh, Babby, Jack has run away with Bessy Surtees to Scotland to be married—what will my father say?" They wept all night—but, bathing their eyes in cold water, they composed themselves as they best could, and went down to breakfast in the morning. A letter from Jack to the old gentleman he read and put in his pocket, without saying a word or altering his countenance—and all that day the family remained in a state of suspense with respect to the line of conduct which he would pursue. The following morning he was melted by a contrite epistle from Morpeth; and Henry, the third brother, was despatched thither with a pardon and an invitation to the young couple to take up their residence in Love Lane. The bride used to describe the third day of their marriage as very sad:—"Our funds were exhausted; we had not a home to go to, and we knew not whether our friends would ever speak to us again. In this mournful dilemma I suddenly espied from a window a fine large wolf-dog, belonging to the family, called *Loup*, walking along the street,—a joyful sight, for I knew a friend was near, and in a few minutes John's brother, Mr. Henry Scott, entered the room with tidings of peace." The invitation to Love Lane was of course gladly accepted.

But the Surteeses were for some time implacable. Mrs. Surtees had been so affected by her daughter's flight that she had kept her bed for several days, and her mind fluctuated between sorrow and anger. She was still more irritated by receiving a letter from Mrs. Henry Stephenson, who, piqued that the good advice she had given her niece the preceding season had all been thrown away, said,—“Mr. and Mrs. John Scott cannot be received in Park Lane, as our own family consists only of a daughter with a very pretty face and a very good fortune, before whom it would be imprudent to present a sanction to elopements.” The old banker was so much displeased that he would not even speak to the old

coal-fitter, with whom he used before to converse on friendly terms. But at last "MONTAGUE" broke through the reserve, and going up to "CAPULET" on the Exchange, said to him characteristically,—“Why should this marriage make you so cool with me? I was as little wishful for it as yourself; but, since what is done cannot be undone,—for every hundred pounds you put down for your daughter, I will cover it with another for my son.” The answer was,—“You are too forgiving; you are too forgiving; that would be rewarding disobedience.”

When the news transpired at Oxford, Mr. William Scott said to a friend there, “I suppose you have heard of this very foolish act of my very foolish brother.” The softening observation being made,—“I hope it may turn out better than you anticipate,” he replied, “Never, Sir, never! he is completely ruined, nor can anything now save him from beggary. You do not know how unhappy this makes me, for I had good hopes of him till this last confounded step has destroyed all.”—The despair of Moises I have already commemorated.

A story is told that, in the present abject state of his fortunes, the future Chancellor was in imminent danger of being punished for his imprudence by being condemned to spend the remainder of his days in selling figs and raisins. It is said that an old and very wealthy grocer, being childless, went to Scott the father, and, saying “he took compassion on the destitute condition of John,” offered at once to give him an equal share of his lucrative business without any premium,—that the father was well pleased with the proposal, but said, “he could not accept it without consulting his oldest son, who was at Oxford,”—that he wrote to William accordingly, and that it was only upon William requesting that John might be sent back to his college, wife and all, and promising to do what he could for them, that the offer was rejected. But there is no written, and very slender parol, evidence for this statement, and it was probably invented to multiply the marvels of Lord Eldon’s career. I do not believe that after his academical distinction he would ever have submitted to the degradation of standing behind a counter. At the very time when this negotiation is supposed to have been going on, conscious of his own upright intentions, and relying with some confidence on his own powers, he wrote the following spirited letter to his cousin Reay, then at Oxford:—

“MY DEAR REAY,

“It gives me some satisfaction to find that, amidst the censures of those whose frowns I despise, and the applause of others whose good opinion I am not very anxious to secure, a change of life on my part has not been attended with a change of sentiment on yours. Those who knew me not were at liberty to deal out their plaudits, or express their disapprobation, in as strong terms as they pleased; and whilst I expected, from impertinent ignorance or morose old age, reflections upon my honour and my prudence, I was contented that the latter should be suspected by those friends whose knowledge of me would lead them without hesitation (I flatter myself) to believe that I had acted with an unremitting attention to the former. *Virtute meâ me involvo*: and I can with the greatest confidence retire, from the harsh criticisms of a world which must ever remain ignorant of the justifying circumstances, to a heart which will never reproach me. I hope I shall not be suspected of vanity, if I assert that no man, who knew me thoroughly, would condemn me as consulting only the gratification of a boyish passion.

* * * * *

“You have long known me, Hal; you will not suspect me of dissimulation, if, where there is so little occasion for any other arguments to disarm you of any suspicions with respect to the rectitude of my conduct, I farther assert in general terms, *that I have only acted the unavoidable part*: I cannot honourably descend to such particulars as may prove the truth of the assertion. I should not have said so much, if I had not been writing to a person whose behaviour has endeared him to me so greatly, that I should be uneasy under his disapprobation.

“Such are the motives upon which the scheme was undertaken: it was executed with some wonderful escapes, and exhibits in my conduct some very remarkable generalship: I eluded the vigilance of three watchmen stationed in the neighbourhood, without the assistance of a bribe; and contrived to be sixty miles from Newcastle before it was discovered that I had left the place. My wife is a perfect heroine, and behaved with a courage which astonished me. In truth, *fortes Fortuna juvat*; how else can I account for the first intimations about a scheme which I should not have dreamt would ever have been thought of,—the success of a plan seemingly impracticable,—and the ready forgiveness of those whom I expected to have found unrelenting?—I have now, Reay, bid adieu to all ambitious projects, because my highest ambition is gratified: though a husband, I am yet so much of a lover, as to think the world well lost, whilst I retain the affections of one woman, the esteem of a few friends, and the good wishes of Reay. Some of the good folks here, as you surmised, have starved me, out of pure pity: but, though I shall not expire by a surfeit, I think I shall scarce die of hunger.

* * * * *

“With respect to your being a candidate for my fellowship, the college will suffer no loss by my imprudence if I have such a successor.

I expect to hear from you again soon : in the mean time, believe me to be, dear Reay,

“ Your sincere friend, and

“ (Upon your mother’s authority)

“ Your affectionate cousin,

“ J. SCOTT.

“ Wednesday.”

“ A love-match may be a very silly and selfish action, or a very wise and disinterested one—the suggestion of a passing fancy, or the result of reflection and self-knowledge.” The elopement of Mr. Scott and Miss Surtees was of a very venial character, and is chiefly to be regretted as giving countenance to a practice which can seldom admit of such palliations. Her parents, though they might reasonably refuse their consent to her union with a young man unable to support her, had no right to insist on her marrying another, when her affections were pre-engaged. His family having once countenanced the courtship, were not justified in suddenly trying to put a stop to it; and it should always be remembered that he was ready to submit to all the exertions, privations, and sacrifices demanded by the relation he thus clandestinely contracted. Both made ample atonement to society for their offence, if it was one. There never was a more faithful or affectionate pair; and they afforded a beautiful example of the *consortium vite*, which constitutes the essence of the married state. She conformed to his tastes, and thought only of his advancement. One example is more worth than any amount of general praise. When her husband was qualifying himself for the Bar, she would sit up with him during his midnight studies, watching him with silent affection, and moving about on tip-toe that she might not disturb the connection of his thoughts. The faults of penuriousness and seclusion, which she afterwards displayed, grew out of the habits she acquired when exercising self-denial for his sake. He showed his deep sense of the obligations under which he had come—not only by his unwearying exertions to be able creditably to maintain her, but when youth and beauty were gone, and peculiarities of temper and manners appeared in her which were to be regretted, though excusable, he still treated her with fondness. Being told, after the clandestine match of his eldest daughter, Lady



Elizabeth, that he should force Lady Eldon into society, in order to chaperon the younger daughter, Lady Frances,—he replied, “When she was young and beautiful, she gave up every thing for me. What she is, I have made her; and I cannot now bring myself to compel her inclinations. Our marriage prevented her mixing in society when it might have afforded her pleasure; it appears to give pain now, and why should I interpose?”—When she was snatched away from him by death, he still tenderly cherished her memory. Within two or three years of his own decease, when a north-country friend came over to see him at Rushyford, the old peer observed to him, “I know my fellow-townsmen at Newcastle complain of my never coming to see them, but how can I pass that bridge?”—meaning the bridge across the Tyne, looking upon the *Sand-hill*. Then musing on the dead—with tears in his eyes,—after a pause he exclaimed, “Poor Bessie! if ever there was an angel on earth, she was one. The only reparation which one man can make to another for running away with his daughter, is to be exemplary in his conduct towards her.”

But we have now to attend Mr. and Mrs. John Scott in Love Lane. She was, and therefore so was he, still most wretched, on account of the obduracy of her father, who vowed that he never would see her more, nor forgive her even on his death-bed. But at length the old gentleman, hearing of her anguish, and feeling the want of her pious attentions, in which he had so much delighted, gradually relented, and sent her his forgiveness and his blessing. Her brother John, who was the bearer of this message, said, “She threw her arms about me in a transport of joy, and kissed me for a considerable time without intermission.”

They now removed to Mr. Surtees’s house on *Sand-hill*, where they met with a kind reception.

Soon after, “Articles” were executed, whereby Mr. Scott
Jan. 7, 1773. settled upon them 2000*l.*, and Mr. Surtees 1000*l.*
 (which he afterwards doubled), to bear interest at 5*l.* per cent.

I need not formally refute the false statement which has been so often repeated,—that Lord Eldon, never having been reconciled to Mr. Surtees, showed his thirst for revenge by sealing with his own hand, when Chancellor, a commission of bankruptcy against him. Mr. Surtees lived and died in affluent circumstances, although the bank to which he be-

longed long afterwards failed; and he lived with his son-in-law on terms of the greatest confidence and affection.*

To bring this matrimonial narrative to a conclusion, I have only to state, that although no doubt was entertained about the marriage celebrated at Blackshiels being sufficient, both in law and religion,—with a view to easy evidence of marriage in future times, it was thought right to follow the practice of the Chancellor with respect to his wards, and to have the parties re-married in England, in conformity to the provisions of Lord Hardwicke's Act. Accordingly the ceremony was again performed in the parish church of St. Nicholas, Newcastle, in the presence of the father of the bride and the brother of the bridegroom, and the following entry was made of it in the register :—

“ John Scott and Elizabeth Surtees, a minor, with the consent of her father, Aubone Surtees, Esq., and both of this parish, were married in this church, by licence, the 19th day of January, 1773, by me,

“ CUTH. WILSON, Curate.

“ This marriage was solemnized between us,—

John Scott and	}	In the presence of us,
Elizabeth Surtees		Aubone Surtees, Henry Scott.”

The bride and bridegroom, on this occasion, without trepidation, entered a post-chaise which waited for them at the church door,—and, rapidly crossing the Tyne, bade adieu to Newcastle.

“ The world was all before them, where to choose
Their place of rest, and Providence their guide.”

* Of this I have a very striking proof in a letter from the son-in-law, showing that he was afterwards employed by his father-in-law in the delicate matter of advising with him about the framing of his will.

CHAPTER CXCIL.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HE WAS CALLED TO
THE BAR.

It was now necessary that Mr. John Scott should form a new scheme of life. He could no longer look to the Church as a profession. After the year of grace his fellowship was lost by his marriage, and he had no other chance of ecclesiastical preferment. He resolved, if a college living should fall vacant within the year, to claim it, but immediately to begin the study of the law—having for a little time two strings to his bow. Although he by no means felt any enthusiasm for his new profession, he knew that from a sense of duty he should be able to submit to its labours. Accordingly, on his arrival in London, he was admitted of the Middle Temple. The following is a copy of his admission :—

“Die 28 Januarii 1773, Ma^r.

Johannes Scott, filius tertius Gulielmi Scott de Novo Castello super Tinum, Armigeri, admissus est in Societatem Medii Templi Londini specialiter. Et dat pro fine 4l.”

Mr. and Mrs. John Scott proceeded to Oxford, which was to be the place of their residence while he was preparing for the Bar. A lady, who met them at a friend's house where they paid a visit on their way, observed, in a letter written many years after, “Her appearance was considered his sufficient apology, for she was extremely beautiful; and so very young as to give the impression of childhood, especially as her dress corresponded with that idea, the white frock and sash being in those days the distinguishing mark of a child, as well as the flowing ringlets which hung around her shoulders.”

Sir Robert Chambers, Principal of New Inn Hall, and Vinerian Professor of Law, had just been appointed a Judge in the East Indies, and the job had been arranged that he should retain these appointments during his absence, performing their duties by deputy. Accordingly John Scott was named Vice-Principal of New Inn Hall, having rooms for his family in the

Lodge, and Vice Law Professor with a salary of 60*l.* a year, being employed merely to read the lectures written by his superior. He himself gave the following amusing account of his *début* in this line:—"The law professor sent me the first lecture which I had to read *immediately* to the students, and which I began without knowing a single word that was in it. It was upon the statute (4 & 5 P. & M. c. 8) 'Of young men running away with maidens.' Fancy me reading, with about 140 boys and young men all giggling at the professor! Such a tittering audience no one ever had!"

He likewise eked out his income by private pupils sent to him from University College; and with the aid of a quarterly present from his brother William, and of strict good management, he and his wife could make the two ends meet. Tea-parties were the only entertainments they could venture to give to their friends. At these *symposia* they sometimes had a no less distinguished guest than Dr. Samuel Johnson, and Mrs. John Scott used to relate that she herself helped him one evening to fifteen cups of his favourite beverage.

Lord Eldon does not seem, like his brother, Sir William Scott, to have cultivated literary society on removing to London; but he watched the great Lexicographer with much attention, and was eager to get into his company during his visits to Alma Mater. "The Doctor was so absent," he would say, "that I have seen him standing for a long time without moving—with a foot on each side of the kennel, which was then in the middle of the High Street, Oxford,—with his eyes fixed on the running water." He related, that "in the common room of University College, a controversialist having frequently interrupted Johnson during a narrative of what had fallen under his own observation, saying, 'I deny that,' he at last vociferated, 'Sir, Sir, you must have forgot that an author has said, *Plus negabit unius asinus in undâ horâ, quam centum philosophi probaverint in centum annis.*'"—But the following is his best Johnsonian anecdote. "I had a walk in New Inn Hall Garden with Dr. Johnson, Sir Robert Chambers, and some other gentlemen. Sir Robert was gathering snails and throwing them over the wall into his neighbour's garden. The Doctor reproached him very roughly, asserting that this was unmannerly and unneighbourly. 'Sir,' said Sir Robert, 'my neighbour is a dissenter.' 'Oh,' said the Doctor, 'if so, Chambers, toss away, toss away, as hard as you can.'" The real good-humour here displayed makes us forget the apparent bigotry.

At this time Lord Eldon gave the first specimen of his judicial powers—which must be allowed to have been very promising, although as yet he had but a slender portion of jurisprudential lore. Being senior resident fellow of University College, two under-graduates came to complain to him, that “the cook had sent them up an apple-pie *that could not be eaten*.” The defendant being summoned, said, “I have a remarkably fine fillet of veal in the kitchen.” The Judge immediately overruled this plea as tendering an immaterial issue, and ordered a *proferat in curiam* of the apple-pie. The messenger sent to execute this order brought intelligence that the other under-graduates, taking advantage of the absence of the two plaintiffs, had eaten up the whole of the apple-pie. Thereupon judgment was thus pronounced: “The charge here is, that the cook has sent up an apple-pie that cannot be eaten. Now that cannot be said to be uneatable which has been eaten; and as this apple-pie has been eaten, it was eatable. Let the cook be absolved.” He used to say, in telling the story, “I often wished, in after-life, that all the causes I had to decide had been *apple-pie causes*, and then no one could have complained of my *doubts or delays*.”

But, by gigantic efforts, he was now laying the foundation of the unrivalled fame as a great magistrate which he acquired when presiding on the woolsack. Having taken his Master's degree on the 13th of February, 1773, he began the study of the law with the most devoted resolution to conquer all its difficulties. There was but little chance of a college living falling in during his year of grace, and on the 19th of November following,—the anniversary of his Blackshields marriage,—he actually gave up his fellowship. His efforts were redoubled when his new profession afforded the only chance of his being able to maintain himself and his family. He rose in the morning at four—took little exercise—made short and abstemious meals, and sat up studying late at night, with a wet towel round his head to drive away drowsiness. I am grieved to hear that the reading of “Coke upon Littleton” is going out of fashion among law students. When I was commencing my legal curriculum, I was told this anecdote:—A young student asked Sir Vicary Gibbs how he should learn his profession. *Sir Vicary*: “Read Coke upon Littleton.” *Student*: “I have read Coke upon Littleton.” *Sir Vicary*: “Read Coke upon Littleton over again.” *Student*: “I have read it twice over.” *Sir Vicary*: “Thrice?” *Student*: “Yes, three times over very

carefully." *Sir Vicary* : " You may now sit down and make an abstract of it." If my opinion is of any value, I would heartily join in the same advice. The book contains much that is obsolete, and much that is altered by statutable enactment; but no man can thoroughly understand the law as it is without knowing the changes it has undergone, and no man can be acquainted with its history without being familiar with the writings of Lord Coke. Nor is he by any means so dry and forbidding as is generally supposed. He is certainly immethodical, but he is singularly perspicuous, he fixes the attention, his quaintness is often most amusing, and he excites our admiration by the inexhaustible stores of erudition which, without any effort, he seems spontaneously to pour forth. Thus were our genuine lawyers trained. Lord Eldon read Coke upon Littleton once, twice, and thrice, and made an abstract of the whole work as a useful exercise—obeying the wise injunction, "*Legere multum—non multa.*" On the 8th of March, 1774, he had a fresh incentive to industry in the birth of a son.

Soon after, his health suffering, he consulted a physician, who seriously advised him to be more moderate in his application; but he answered, " It is no matter—I must either do as I am now doing, or starve." He had a little relaxation in going for a few days, four times a year, to keep his terms in the Middle Temple; and during the general election in 1774 he paid a visit to his native place, when he took up his freedom as the son of a "hoastman," and voted for Sir William Blackett and Sir Matthew White Ridley. It is said that in this journey, coming late at night to the Hen and Chickens, at Birmingham, the house he used to frequent in travelling between Newcastle and Oxford, the landlady, seeing him look so dreadfully ill, insisted on dressing something hot for his supper, saying "she was sure she should never see him again."

While residing in New Inn Hall, his brother Henry married, and he wrote a number of letters to his new sister-in-law and to his other relations at Newcastle, which are preserved; but they are dreadfully stiff and dull, and indicate an utter loss of his ante-nuptial sprightliness.*

It was full time that he should be transferred to a livelier scene, and the approach of his call to the Bar rendered his residence in London indispensable. A.D. 1775. Accordingly, in the long vacation of 1775, he bade Oxford a

* Twiss, ch. iv.

final adieu, and he moved, with his family, to a small house in Cursitor Street, near Chancery Lane. This house he would point out to his friends late in life, saying, "There was my first perch: many a time have I run down from Cursitor Street to Fleet Market to buy sixpenn'orth of sprats for our supper."

He now diligently attended the Courts in Westminster Hall, with his note-book in his hand. Lord Bathurst presiding in the Court of Chancery, from whom little was to be learned, he took his place in the students' box in the Court of King's Bench, where Lord Mansfield shone in the zenith of his fame; but he never would acknowledge the extraordinary merits of this great Judge, and was always disposed to sneer at him. One source of prejudice was the marked predilection of the Christ Church man for his college, and the slighting manner in which he would talk of "University" along with all other colleges and halls at Oxford. This we shall find was the ostensible ground for Mr. Scott afterwards quitting the Common Law for Equity.

He seems to have been less struck by the learning of the Judges than by that of Serjeant Hill—supposed to be the greatest black-letter lawyer since Maynard's time, and as much celebrated for his eccentricity as his learning,—inasmuch that on his wedding night, going to his chambers in the Temple, and continuing there reading cases till next morning, he

"Thought of the 'Year Books' and forgot his bride."

Lord Eldon related that, at their first interview in Westminster Hall, being entire strangers, the following dialogue took place between them:—*Hill, stopping Scott*: "Pray, young gentleman, do you think herbage and pannage rateable to the poor's rate?" *Scott*: "Sir, I cannot presume to give any opinion, inexperienced and unlearned as I am, to a person of your great knowledge and high character in the profession." *Hill*: "Upon my word you are a pretty sensible young gentleman; I don't often meet with such. If I had asked Mr. Burgess, a young man upon our circuit, the question, he would have told me that I was an old fool. You are an extraordinary sensible young gentleman."^b

^b The first day I dined in Lincoln's Inn Hall, a brother student, whose name I had not before heard of—but who has since deservedly reached high professional distinction—after a long silence in our mess, thus ad-

dressed me: "Pray, Sir, what is your opinion of the *scintilla juris*?" I entered into a discussion with him about the *feeding of uses*—but I am afraid I never could induce him to think me "an extraordinary sensible young

The custom having been introduced for law students to become pupils of a special pleader, or of an equity draughtsman, Mr. Scott would have been very glad to have conformed to it, if the state of his finances would have enabled him to pay the usual fee of a hundred guineas; but this he could not do without borrowing,—a habit he ever held in abhorrence; and he would have been without any preliminary discipline of this sort, if Mr. Duane, an eminent Catholic conveyancer,^c had not agreed to let him have “the run of his chambers,” for six months, without a fee. He was particularly anxious to be initiated in this branch of the profession; for, ever since he took to the law, he cherished the plan of settling as a provincial counsel at Newcastle, where skill in conveyancing would have been essentially necessary to his success.^d

Soon after making this arrangement, he wrote the following letter to his brother Henry:—

“DEAR BROTHER,

“I am at length settled in the circle of lawyers, and begin to breathe a little after the laborious task of removing a family, which is a work as difficult as that of removing a mountain. You know, probably, that this is only a step preparatory to a settlement among you, which I begin to think is a prospect that brightens upon me every day. I have been exceedingly fortunate in forming my previous connections, as the object which I had most at heart I have obtained. The great conveyancing of your country is done by Mr. Duane: it seemed to be, therefore, a most desirable thing to be connected with him, as his recommendation and instructions might probably operate much in my behalf hereafter. The great fear arose from his never having taken any person in the character of a pupil before, and the apprehension, that if he should now break through a general rule, it must be on terms with which I could not afford to comply; but he has offered me every assistance in his power, and is so extremely ready to forward my schemes, as to declare himself contented with the satisfaction he will enjoy in contributing to the success of a person whom he is so uncommonly kind as even to honour. This conduct of his has taken a great load of un-

gentleman.” I may now state that this was Lord St. Leonards, ex-Chancellor of Ireland and of Great Britain.

^c At this time conveyancing was chiefly in the hands of Roman Catholics. Being long prevented by their religion from being called to the Bar, they practised successfully in chambers; and being employed at first by their co-religionists, their industry and learning forced them into general business. Charles Butler, whom I well knew, may be

considered the last of this race.

^d So early as 28th May, 1771, he says, in a letter to his brother Henry: “I hope once more to see you, about this time two years, when I intend, if I can manage it, to come your circuit; and in case of encouragement, I shall, some three years after that, perhaps, settle in Newcastle.” There is no foundation for the common opinion that his plan of settling at Newcastle originated from his bad success in London.

easiness off my mind, as in fact our profession is so exceedingly expensive that I almost sink under it. I have got a house barely sufficient to hold my small family, which (so great is the demand for them here) will in rent and taxes cost me annually sixty pounds. I thank God, it will be only for two years at most. I have been buying books, too, for the last ten years, and I have got the mortification to find, that before I can settle, that article of trade—for as such I consider it—will cost me near two hundred pounds:—not to mention the price of a voluminous wig.”*

During the six months agreed upon, he worked at Mr. Duane’s almost night and day, making a gigantic collection of precedents, and examining all the draughts and cases which went through the office. To this period of study he ascribed much of his success in the profession. When he referred, as he was fond of doing, to Mr. Duane’s liberality in taking him without a fee, he would add, “That was a great kindness to me. He was a most worthy and excellent man. The knowledge I acquired of conveyancing in his office was of infinite service to me during a long life in the Court of Chancery.”

I will here finish what I have to relate of his legal studies. To supply the deficiency arising from his not having been with a special pleader or equity draughtsman, he copied all the MS. forms he could lay his hands upon. He was very proud of the volumes he thus compiled, and regretted their loss, suggesting that “he had lent them to friends *with a bad memory*.” Unconscious of the joke which I have often heard circulated against himself,—that, when Chancellor, he greatly augmented his own library by borrowing books quoted at the Bar, and forgetting to return them,—he would say of such borrowers, “Though backward in *accounting*, they are well practised in *book-keeping*.”

He engaged in a course of reading,—the expediency of which I should doubt. It is well for the student to peruse consecutively the Reports of Lord Coke and of Plowden; but Mr. Scott went through a systematic course of Reports, and, coming down to a reporter of such low credit as *Vernon*, he could tell the names of most of the cases reported, with the volume and page where they were to be found.

I wish I could add, that at the same time he attended to more elegant pursuits; but for such a combination I fear that

* In a letter from William Scott to his brother Henry, dated Oxford, Nov. 7, 1775, he says: “Brother Jack is gone to town to settle there under a conveyancer. God grant him success in his profession; he deserves the best wishes of his friends.”

human strength is insufficient. He seemed to have renounced all taste for classical learning with his academical cap and gown, and never to have taken the smallest interest in the literature of the day. He read a weekly newspaper, but no other periodical publication; and although when a boy he had studied the Rambler and Johnson's earlier works, he is not supposed to have spared time from copying precedents to read the "Journey to the Hebrides," or the "Lives of the Poets." Hence we have to desiderate in him the vein of classical allusion, and the beautiful diction, which gave such a charm to the conversation and compositions of Lord Stowell. But we ought to honour his unwearied industry, and to admire his stupendous acquirements in one department of human knowledge. Before he had ever pleaded a cause, he was fit to preside on the bench; and there he would have given more satisfaction than most other members of the profession, who could boast of their "lucubrationes viginti annorum." It must be remembered always, that he had by nature an admirable head for law, and that he seemed almost by an intuitive glance to penetrate into its most obscure mysteries.—He was ere long to reap the reward of his industry.

CHAPTER CXCIIL.

CONTINUATION OF THE LIFE OF LORD CHANCELLOR ELDON TILL HE
RECEIVED A SILK GOWN.

MR. JOHN SCOTT was called to the Bar by the Honourable Society of the Middle Temple on the 9th of February, 1776; but he did not begin to appear as a candidate A.D. 1776. for practice till Easter term following. He used in his latter years to talk much of his bad success at starting; but I am bound to say that this he greatly exaggerated. It seems to me, that, with a view to enhance the marvel of his ultimate rise, he was unconsciously disposed to dwell rather too much upon the difficulties he had overcome, and to forget the encouragements he had met with,—till at last, by oft repetition, he himself gave faith to a representation of his first

years at the Bar considerably at variance with the genuine truth.

According to the following statement by himself, he was cheated of his maiden fee:—"I had been called to the Bar but a day or two, when, on coming out of court one morning, I was accosted by a dapper-looking attorney's clerk, who handed me a motion paper, in some matter of course, which merely required to be authenticated by counsel's signature. I signed the paper, and the attorney's clerk, taking it back from me, said, 'A fine hand your's, Mr. Scott—an exceedingly fine hand! It would be well if gentlemen at the Bar would always take a little of your pains to ensure legibility. A beautiful hand, Sir.' While he spoke thus, the eloquent clerk was fumbling first in one pocket, then in the other, till, with a hurried air, he said, 'A—a—a—I really beg your pardon, Sir, but I have unfortunately left my purse on the table in the coffee-room opposite; pray do me the favour to remain here, and I will be back in one moment.' So speaking, the clerk vanished with the rapidity of lightning, and I never set eyes on him again."

He dilated often on the difficulty he had in procuring an equipage to go his first circuit. "At last," he continued, "I hired a horse for myself, and borrowed another for an inexperienced youth who was to ride behind me with my saddle-bags. But I thought my chance was gone: for having been engaged in a discussion with a travelling companion, on approaching the assize town I looked behind, but there was no appearance of my clerk, and I was obliged to ride back several miles, till I found him crying by the road-side, his horse at some distance from him, and the saddle-bags still farther off; and it was not without great difficulty that I could accomplish the reunion between them, which he had in vain attempted. Had I failed too in this undertaking, I never should have been Lord Chancellor."

He represented his gains for twelve months after he put on his gown to amount to 9s. sterling, and no more. "When I was called to the Bar," he would say, "Bessy and I thought all our troubles were over; business was to pour in, and we were to be rich almost immediately. So I made a bargain with her, that during the following year all the money I should receive in the first eleven months should be mine, and whatever I should get in the twelfth month should be hers. That was our agreement, and how do you think that it turned out? In the twelfth month I received half a guinea; eighteen pence went

for charity, and Bessy got nine shillings.' In the other eleven months I got not one shilling." It may be true, although it is highly improbable, (considering his north-country connections, the friendship of Mr. Duane, and his own agreeable manners,) that he had no other business in London during his first year; but in the summer of this year he went the Northern Circuit, where we know, from undoubted authority, that he prospered. There is extant a letter from Sir William to their brother Henry, written on the 2nd of October, 1776, containing this passage:—"My brother Jack seems highly pleased with his circuit success. I hope it is only the beginning of future triumphs. All appearances speak strongly in his favour. If he does not succeed, I will never venture a conjecture upon any one thing again. He is very industrious, and has made great progress in the knowledge of his profession."

Lord Eldon had fallen into the belief that his famous argument in *Akroyd v. Smithson*, before Lord Thurlow, in the year 1780, was the first opportunity he ever enjoyed of gaining distinction. But it now appears, that early in the year 1777 he repeatedly harangued the freemen of Newcastle at a contested election for that borough, and that in the ensuing session of Parliament he was counsel before a committee of the House of Commons, upon a petition which arose out of it. Stoney Bowes had lately married the Countess of Strathmore, after fighting a sham duel, in defence of her honour, with the Reverend Bate Dudley, editor of the *Morning Post*,—and was now, in her right, become entitled to large estates in the county of Durham. During the honey-moon he announced himself as a candidate to represent Newcastle on the death of Sir William Blackett: and his absence being excused on account of the duties he had to discharge elsewhere, John Scott, retained as one of his counsel, not only argued the validity of votes on his behalf before the returning officer, but used to speak for him in public. "As a mob orator, his townsmen considered him to have failed; he proceeded with hesitation, stopped frequently, and with a nervous action raised his hand to his mouth, as though to pull out the reluctant words." ^a The printed poll-book shows that John Scott, along with his

^r This must have been a half-guinea motion, the last day of term—when there was a deduction (it used to be only 1s. in the King's Bench) for the benefit of poor prisoners confined for debt.

^s W. E. Surtees, 51. In a humorous

piece acted on the Italian stage, where there is a similar difficulty experienced, Punchinello runs his head into the stomach of the stammering orator—to make the words jump out.

brothers William and Henry, as freemen of the Hoastmen's Company, voted for Bowes; but Trevelyan, the opposite candidate, had a majority of votes, and was returned.^b The poll lasted fourteen days, and our young barrister received an *honorarium* of 200 guineas, which he must have carried back to Bessy with high glee, although somehow it afterwards slipped entirely from his recollection. But his forgotten good fortune did not end here. There being a petition against the return, he was retained for the petitioner, against Dunning, Serjeant Glynn, and Jack Lee—and, with mutual charges of bribery, the case was fiercely fought many days. While it was pending, he wrote a letter to his brother Henry, who had been one of Bowes's agents during the election; in which, after stating that he had summed up the evidence for the petition that morning in a long speech,—that a greater impression had been made upon the committee than was expected, but that their witnesses had been rigorously cross-examined with a view to recrimination, he adds:—"I hope you have not been so zealous as to overleap the bounds of law and prudence, for I take it for granted that they will spare nobody—our case has irritated and surprised them so much. I think, upon the whole, it will not be a void election, but will contribute to establish Bowes's importance very much."

The committee at last reported that the sitting member was duly elected, when John Scott, in another letter to his brother Henry, says, "The committee cleared the room to take the sense of the majority; but, after debating two hours, they were so much divided, that they could not come to a determination. They met according to adjournment again yesterday, but again broke up without a decision. This morning they met a third time, and I am just informed the majority is against us. Thus this 'vexatious and frivolous petition' has proved respectable, though not successful." A few days afterwards Sir William wrote—"I am very happy to find that my brother John acquitted himself so much to the satisfaction of his friends in the matter of the petition. That affair is well ended for us all,—all circumstances considered."^c

^b 1163 to 1068.

^c These election proceedings not having been communicated to Mr. Twiss, he does not refer to them in his first or second edition. In a note on the third he says,—“Among the papers left by Lord Eldon there has been found no trace of, or allusion to, Mr.

Bowes's retainers, nor is any memory of them extant in the Eldon family.” But the old Earl could hardly have forgotten “briefs, consultations, and refreshers,” which must have been so important to him; and I suspect he became ashamed of his connection with a client who turned out such a repro-

The same year Mr. John Scott, through the influence of his father-in-law, had a general retainer from the corporation of Newcastle, and received a brief, with several eminent leaders, to support a claim of the Duke of Northumberland to an ancient office against Lord Gwydir. Of this last employment he would often talk, saying, "It was only a handsome way of giving me twenty guineas a day for walking down to the House of Lords."^k

This summer he again went the Northern Circuit, and had evidently taken root there, having various briefs in the Crown Court at Newcastle, where the attorneys showed a disposition to employ him, and were well pleased with his performances. Above all, Mr. Cuthbert, the topping attorney of the town, was his avowed patron.^m

In the end of the preceding year he had lost his father, who, by his will, left him a legacy of 1000*l*. He placed a tablet with an unostentatious inscription, in St. Nicholas's church, to the memory of the worthy coal-fitter, and always behaved with kindness to his surviving parent, who lived to see him a peer.

At this time, rather attracted by the harvest which he thought was ripe for him in his native place, than despairing of ultimate success in the metropolis, he resolved at once to settle as a provincial counsel; and he actually hired a house in Pilgrim Street, on the bank of the Tyne;—the summit of his ambition being, as yet, the Recordership of Newcastle.

But before he had removed his family from London he altered his plans, and made over the lease of his house in Pilgrim Street to his brother Henry. What was the cause of this sudden change has not been cleared up to us. Mr. Heron, another leading Newcastle attorney well

bate. Many years after, Sir John Scott was examined as a witness in the Court of Common Pleas to prove that, at the time of this contested election, Mr Bowes and Lady Strathmore lived together on cordial terms. In a letter dated 1st May, 1778, he says: "I see your friend Bowes very often, but I dare not dine with him above once in three months, as there is no getting away before midnight; and, indeed, one is sure to be in a condition in which no man would wish to be in the streets at any other season."

^k When the Duke was commander-in-chief of the northern forces during the American war, his head-quarters being fixed at

Newcastle, he was occasionally the guest of Mr. Surtees, when Mrs. John Scott and her infant son were there. His Grace would often take the boy on his knees, calling him his Captain, and saying good-humouredly, "You shall soon be an officer in my regiment."

^m The importance attached by the family to this patronage appears by a letter written at this time by Sir William, complaining much of Cuthbert's conduct in some negotiation, in which he says,—“However, Jack's interest is concerned in not saying anything affronting to him; otherwise I should not spare him.”

affected to him, strongly urged that London was the proper field for such powers and acquirements as his, and added, "Only go, and I'll give you a guinea now, on condition that you give me a thousand when you're Chancellor." So saying, he handed him a guinea, which Mr. John Scott, who did not like to refuse money, was proceeding to put into his pocket. On this Sir William, who was present at the deliberation, exclaimed, in a tone of remonstrance, "Jack, you're robbing Heron of his guinea," and it was returned. I suspect that London was at this time preferred on account of a promise given by Lord Thurlow, on the application of Lord Darlington, —though never fulfilled,—to confer upon Mr. John Scott a Commissionership of Bankrupts. Accustomed to doubt long on questions of law, he ever showed great decision in acting where his own interests were concerned. "I much question," says Mr. W. E. Surtees, "whether, in his whole life, he was ever prevented by his doubts from undertaking any enterprise which promised advantage. His were the doubts of the courageous but cautious general, who, even while making his advance, prepares for the hard necessity of retreat."

In this transaction we have a striking instance of his characteristic caution and the liberties with fact which he deemed justifiable. Although he was to part with all interest in the house, and he had abandoned for the present all notion of settling in Newcastle, he writes from London to his brother Henry: "You will be so kind as to second my wishes to keep Newcastle open for me, in case I am defeated here, and, for that purpose, to assert that I have not relinquished, but only delayed for a short time, my plan of settling there." And in a subsequent letter he says to Henry, who seems himself actually to have been taken in by these statements: "I thought we had understood each other too well, to make it possible for you to receive any disturbance upon the subject of the house. I wished only to have it held out to the world, and, among the rest, to Outlibert himself, that I might have the house again at a short warning—by way of impressing them and him with so strong an idea of an intention in me hereafter to settle at N.C. as effectually to prevent any other person from taking that step in the mean time." . . . Previous

ⁿ This explanation reminds one of the scene in Foote's farce of "THE LYAR," where even Papillon had been taken in by Young Wilding's circumstantial account of his mar-

riage at Abingdon, in the county of Berks, to the imaginary Miss Lydia Sybthorp. —

Pap. "I am amazed, Sir, that you have so carefully concealed this transaction from me."

Y. Wild.

to my receiving Cuthbert's letter to-day, I had wrote to him, proposing a different method of transferring my interest, and telling him that I had determined to part with the whole of it, contrary to his advice, and to run the risk of getting another when I wanted it. If he interprets this into an intention of giving N.C. up absolutely, you may give him the most positive assurances to the contrary,—telling him and other people (*for it is but a white lye*), that, as I have taken this step to suit your convenience, we shall easily settle any difficulty that may arise."—Henry accepted an assignment of the house, in spite of the remonstrance of Sir William, who thought it would involve him in too great expense, and had thus concluded a letter, inculcating upon him frugality and attention to business: "We inherit from our deceased father not only a provision, but, what is more, an example."

Mr. John Scott, moving from his "first perch" in Cursitor Street, now took a small house in Carey Street, which, from its vicinity to Lincoln's Inn, obviated the necessity of his holding chambers at the same time. Still continuing regularly to go the circuit, and so far considering himself a common lawyer, he had transferred himself to the Court of Chancery, as his usual place of practising in London. Of this transfer he used to give the following account:—"The Court of Chancery was not my object when first called to the Bar. I first took my seat in the King's Bench; but I soon perceived, or thought I perceived, a preference in Lord Mansfield for young lawyers who had been bred at Westminster School and Christ Church, and, as I had belonged neither to Westminster nor Christ Church, I thought I should not have a fair chance with my fellows, and therefore I crossed over to the other side of the Hall."^o

The experiment was at first by no means successful. The old Chancery practitioners were a little hurt at seeing among them a new candidate for business, A.D. 1777—1779. who had not been regularly bred to their craft; but they felt no alarm, and they sneered at the notion of a man aspiring to

Y. Wild. "Heyday! what, do *you* believe it too?"

Pap. "Believe it! Why, is not the story of the marriage true?"

Y. Wild. "Not a syllable."

Pap. "And the cat, and the pistol, and the poker?"

Y. Wild. "All invention! And were you

really taken in?"

^o The number of counsel at that time practising in Chancery is said not to have exceeded twelve or fifteen. Till many years after, the proceedings of that Court were never noticed in the newspapers; and an equity counsel, as such, was rather an obscure character.

be an equity lawyer who had never penned a bill or answer in an equity draughtsman's office. For a year or two their predictions were verified. In January, 1779, Sir William writes to his brother Henry,—“Business is very dull with poor Jack—very dull indeed; and of consequence he is not very lively. I heartily wish that business may bricken a little, or he will be heartily sick of his profession. I do all I can to keep up his spirits, but he is very gloomy. But *mum!* not a word of this to the wife of your bosom.”—He filled up his time by diligently reading every thing to be found in print, connected with the practice and doctrine of courts of equity, till continued hard study, or continued low spirits from want of business in London, began to undermine his health. He consulted Dr. Heberden, who despatched him to Bath, with an intimation that if in three or four weeks the waters should bring out the gout, all was well; but if this result was not effected, he must prepare for the worst. In narrating this interview, he said, “I then put my hand into my pocket, meaning to give the doctor his fee; but he stopped me, asking, ‘Are you the young gentleman who gained the prize for the essay at Oxford?’ I said I was. ‘I will take no fee from you. Go to Bath, and let me see you when you return.’ He was a very kind man; he would never take a fee from me.”—The Bath waters did produce a fit of the gout, and the patient's health was improved.

His professional prospects were still discouraging; but he
A.D. 1776— was afterwards in the habit of considerably overstat-
1780. ing his supposed failure. He would say, “One year I did not go the circuit, because I could not afford it. I had borrowed of my brother for several circuits, without getting adequate remuneration.” Whereas it is proved by the circuit records that he regularly attended the assizes in the four northern counties from the time when he first joined it, and that he could only have been absent one spring circuit from York and Lancaster, where, as yet, he was little known. In reference to his obscurity there, the Reverend Sydney Smith, in an assize sermon delivered in York Cathedral, in 1824, from the text, “And, behold, a certain lawyer stood up and tempted him,”^p—for the encouragement of the desponding young barristers, said “Fifty years ago, the person at the head of his profession, the greatest lawyer now in England, perhaps in the world, stood in this church on such an occasion

as the present, as obscure, as unknown, and as much doubting of his future prospects, as the humblest individual of the profession here present." But in the four northern counties he had almost from his first start a good share of business. It is curious to think that this chiefly consisted in defending prisoners in the Crown Court—or what is jocularly called in the profession the "rope-walk." But he had not the common reputation of lawyers who are eminent in this line,—that they greatly assist in the execution of the criminal law by hanging their clients;—instead of getting out the truth by indiscreet cross-examinations, he was wont to say that he had been a most effective advocate for prisoners, as he had seldom put a question to a prosecutor. He told this story to illustrate his practice: "I was counsel for a highwayman at Durham, who was certainly guilty, but against whom no sufficient case was made out by legal evidence: I would not aid the prosecution by cross-examination, and, remaining quiet, my client was acquitted and discharged. Sitting in my lodgings in the evening, a very ill-looking fellow, whose face I had seen before, but could not at first recollect where—for he had changed his dress—burst in, my clerk being absent—and said, 'Lawyer Scott, you owe me two guineas. You were my counsellor to-day, and you did nothing for me. I am, therefore, come to have my fee back again: and my fee I will have.' I seized the poker, and said, 'Sirrah, although you escaped to-day, when you deserved to be hanged, you shall be hanged to-morrow for attempting to rob me, unless you instantly depart.' At that moment my clerk luckily came in, and the highwayman slunk off, or I am not sure that he would not have carried away with him not only his own fee, but all the fees I had received on the circuit."

He had for some time succeeded so much better in the country than in London, that he again seriously meditated becoming "a provincial." I believe that, if there had not been a speedy turn in his metropolitan practice, he would have carried it into effect; and, considering the important part he played during the King's illnesses, and on the dissolution of several administrations, who can tell how the history of the country might have been changed if he had been only Recorder of Newcastle, instead of being Lord High Chancellor of Great Britain?

But his extraordinary merit as a lawyer was now about to be disclosed to all the world; and from this time his rise was

rapid and steady. He had only one brief before Lord Chancellor Bathurst, who was then entirely under the dominion of Thurlow, the Attorney-General. After Thurlow and Wedderburn had argued the case at considerable length for opposing parties, between whom it was supposed to lie, and Lord Bathurst had intimated a strong opinion in favour of Thurlow's client,—Scott, a very young man, and wholly unknown, appeared as counsel for a third party. The Chancellor was disposed (though with much courtesy) to conclude that the young counsel could not cast much light upon the controversy. Still he *suffered* him to speak,—but without indicating any symptom of being convinced—when Thurlow rose, and, in a very decided tone, exclaimed, “My Lord, Mr. Scott is right;” and dictated a decree accordingly.⁴

The first reported case in which he seems to have been employed in the Court of Chancery was *Green v. Howard*,⁵ in which he was junior to Mr. Ambler and Mr. Maddocks, and in vain tried to persuade Lord Thurlow, who had lately succeeded to the Great Seal, that a bequest to the testator's “relations” would extend beyond that class of relations who, had he died intestate, would have taken under the “Statute of Distributions.” His argument on this occasion, though badly reported, seems to have been very creditable to him.

But his fortune was made by *Akroyd v. Smithson*.⁶ Not more than three weeks before his death, he gave the following very interesting account of that case to Mr. Farrer, who was dining with him, and put a question to him respecting it:—

“Come, help yourself to a glass of Newcastle port, and give me a little. You must know that the testator in that cause had directed his real estates to be sold, and after paying his debts, and funeral and testamentary expenses, the residue of the money to be divided into fifteen parts—which he gave to fifteen persons whom he named in his will. One of those persons died in the testator's lifetime. A bill was filed by the next of kin, claiming, amongst other things, the lapsed share. A brief was given me to consent for the heir-at-law, upon the hearing of the cause. I had nothing then to do but to pore over this brief. I went through all the cases in the books, and satisfied myself that the lapsed

⁴ This anecdote rests on Lord Eldon's own authority.—Sir Vicary Gibbs told me, that on the Western Circuit, when counsel for the plaintiff, Baron Graham was for deciding in his favour; but he insisted on being non-suited, conscious that the law was against

him, and that his client would have been put to the expense of correcting the Judge's error.

⁵ 6th Feb. 1779. Br. Chancery Cases, p. 31.

⁶ *Ib.*, vol. i. p. 503.

share was to be considered as real estate, and belonged to my client (the heir-at-law). The cause came on at the Rolls, before Sir Thomas Sewell. I told the solicitor, who sent me the brief, that I should consent for the heir-at-law, so far as regarded the due execution of the will, but that I must support the title of the heir to the one-fifteenth which had lapsed. Accordingly, I did argue it, and went through all the authorities. When Sir Thomas Sewell went out of Court, he asked the Register who that young man was. The Register told him it was Mr. Scott. 'He has argued very well,' said Sir Thomas Sewell, 'but I cannot agree with him.' This the Register told me. He decreed against my client. The cause having been carried, by appeal, to the Lord Chancellor Thurlow, a guinea brief was again brought to me to consent. I told my client, if he meant by 'consent' to give up the claim of the heir to the lapsed share, he must take his brief elsewhere, for I would not hold it without arguing that point. He said something about young men being obstinate, but that I must do as I thought right. You see the lucky thing was, there being *two* other parties, and, the disappointed one not being content, there was an appeal to Lord Thurlow.—In the mean while they had written to Mr. Johnston, Recorder of York, guardian to the young heir-at-law, and a clever man, but his answer was, 'Do not send good money after bad: let Mr. Scott have a guinea to give consent; and if he will argue, why, let him do so, but give him no more.' So I went into Court, and when Lord Thurlow asked who was to appear for the heir-at-law, I rose, and said modestly, 'that I was; and as I could not but think (with much deference to the Master of the Rolls, for I might be wrong) that my client had the right to the property, if his Lordship would give me leave I would argue it.'—It was rather arduous for me to rise against all the eminent counsel. I do not say that their *opinions* were against me, but they were *employed* against me. However, I argued that the testator had ordered this fifteenth share of the property to be converted into personal property, for the benefit of one particular individual, and that therefore he never contemplated its coming into possession of either the next of kin, or the residuary legatee; but, being land, at the death of the individual it came to the heir-at-law.—Well, Thurlow took three days to consider, and then delivered his judgment in accordance with my speech, and that speech is in print, and has decided all similar questions ever since.—As I left the Hall, a respectable solicitor of the name of Forster came up, and touched me on the shoulder, and said, 'Young man, your bread and butter is cut for life,' or 'You have cut your bread and butter.'—But the story of *Akroyd v. Smithson* does not stop there. In the Chancellor's Court of Lancaster, where Dunning (Lord Ashburton) was Chancellor, a brief was given me in a cause in which the interest of my client would oblige me to support, by argument, the reverse of that which had been decided by the decree in *Akroyd v. Smithson*. When I had stated to the Court the point I was going to argue, Dunning said 'Sit down, young man.'—As I did not immediately comply, he repeated, 'Sit down, Sir, I won't hear you.'—I then sat down. Dunning said, 'I believe your name is

Scott, Sir.'—I said it was. Upon which Dunning went on:—'Mr. Scott, did not you argue that case of *Akroyd v. Smithson*?'—I said that I did argue it.—Dunning then said, 'Mr. Scott, I have read your argument in that case of *Akroyd v. Smithson*, and I defy you, or any man in England, to answer it. I won't hear you.'

Mr. Scott's argument in *Akroyd v. Smithson* made a great sensation in Westminster Hall, and, in the words of Lord Byron, "next day he awoke and found himself famous,"—although from the nature of the subject the *éclat* could not be compared with that acquired nearly about the same time by Erskine as counsel for Captain Baillie. But erroneous accounts have been given of its immediate consequences. Several writers have said that Lord Thurlow immediately offered him a Mastership in Chancery. Such an offer would have been gladly accepted, but was never made. The fulfilment of the promise of a Commissionership of Bankrupts was still in vain expected, and the Chancellor being some years afterwards interrogated on this subject, said that "from his high opinion of Scott he had not given him the appointment, as it might have been his ruin." Again, it is said that not long afterwards an offer was made to him of the Recordership of Newcastle, and that, having accepted it, he caused a house to be engaged for him there; but Mr. W. S. Surtees has satisfactorily proved that he never was Recorder of Newcastle, and that no offer of that office could ever have been made to him. The story of the residence must have originated from the circumstance of his having actually, in 1777, engaged the house which he assigned over to his brother Henry.*

The year 1780 continued a very lucky one for him. On the dissolution of Parliament, Mr. Bowes being returned, with Sir Matthew White Ridley, for Newcastle, there was a petition against them by Mr. Delaval, the unsuccessful candidate; and—Mr. Scott being their counsel, with Jack Lee—after the committee had sat many days, and many fees were received, the petition was voted "frivolous and vexatious."

He was about this time in serious peril from Lord George

* Twiss, vol. i. ch. vi.

" Lord Eldon said,—“ I have now a letter in which Lord Thurlow promised me, a Commissionership of Bankruptcy when it would have been most valuable to me in point of income; he never gave it me, and he always said it was a favour to me to withhold it.

What he meant was, that he had learned (a clear truth) that I was by nature very indolent, and it was only want that could make me industrious.” This could only have been meant as a bantering apology for a broken promise.

* Surtees, ch. ii.

Gordon's mobs, and, what was worse, Mrs. Scott was exposed to insult—when he was taking her for safety to the Temple, which was fortified. I observe that the lawyers all pretended to great prowess in this emergency. We have seen Erskine's boasting narrative of his putting the insurgents to rout with a piece of artillery. Lord Eldon, after stating how his wife's hat was lost, and every article of her dress was torn, proceeded with much quiet humour: "We youngsters at the Temple determined that we would not remain inactive during such times; so we introduced ourselves into a troop to assist the military. We armed ourselves as well as we could, and the next morning we drew up in the court, ready to follow out a troop of soldiers who were there on guard. When, however, the soldiers had passed through the gate, it was suddenly shut in our faces, and the officer in command shouted from the other side, 'Gentlemen, I am much obliged to you for your intended assistance, but I do not choose to allow my soldiers to be shot; so I have ordered you to be locked in,'—and away he galloped."

The following year saw Mr. Scott fully established in business, and an uninterrupted tide of prosperity flowed in upon him for the rest of his life. Fond of A.D. 1781. making people stare when he referred, in his old age, to his early history, he would sometimes ascribe all his success to the accident of being employed as counsel before the Clitheroe election committee—which he thus narrated:—

"Mr. (afterwards Lord) Curzon, and four or five gentlemen, came to my door and woke me, and when I inquired what they wanted, they stated that the Clitheroe election case was to come on, that morning at ten o'clock, before a committee of the House of Commons; that Mr. Cooper had written to say he was detained at Oxford by illness, and could not arrive to lead the cause; and that Mr. Hardinge, the next counsel, refused to do so, because he was not prepared. 'Well, gentlemen,' said I, 'what do you expect me to do, that you are here?' They answered, 'they did not know what to expect or to do, for the cause must come on at ten o'clock, and they were totally unprepared, and had been recommended to me as a young and promising counsel.' I answered, 'I will tell you what I *can* do; I *can* undertake to make a dry statement of facts, if that will content you, gentlemen, but more I *cannot* do, for I have no time to make myself acquainted with the law.' They said that must do; so I begged they would go down stairs and let me get up as fast as I could. Well, I did state the facts, and the cause went on for fifteen days. It found me poor enough, but I began to be rich before it was done: they left me fifty guineas at the beginning;

then there were ten guineas every day, and five guineas every evening for a consultation—more money than I could count. But, better still, the length of the cause gave me time to make myself thoroughly acquainted with the law.—On the morning on which the counsel for the petitioner was to reply, Hardinge came into the committee-room, meaning to reply. I saw the members of the committee put their heads together, and then one of them said, ‘Mr. Hardinge, Mr. Scott opened this case, and has attended it throughout, and the committee think, that, if he likes to reply, he ought to do so: Mr. Scott, would you like to reply?’—I answered ‘that I would do my best.’ I began my speech with a very bad joke. You must know that the leading counsel on the other side, Douglas, afterwards Lord Glenbervie, had made one of the longest speeches ever known before a committee, and had argued that the borough of Clitheroe was not a borough by prescription, for it had its origin within the memory of man. I began by saying, ‘I will prove to the committee by the best evidence, that the borough of Clitheroe is a borough by prescription; that it had its origin before the memory of man. My learned friend will admit the commencement of this borough was before the commencement of his speech: but the commencement of his speech is beyond the memory of man: therefore the borough of Clitheroe must have commenced before the memory of man.’ We were beaten in the committee by one vote. After this speech, Mansfield, afterwards Sir James Mansfield, came up to me in Westminster Hall, and said he heard that I was going to leave London, but strongly advised me to remain in London. I told him that I could not, that I had taken a house in Newcastle, that I had an increasing family, in short, that I was compelled to quit London. Afterwards Wilson came to me and pressed me in the same manner to remain in London, adding what was very kind, ‘that he would insure me 400*l.* the next year.’ I gave him the same answer as I had given Mansfield. However, I did remain in London, and lived to make Mansfield Chief Justice of the Common Pleas, and Wilson a Puisne Judge.”^y

This narrative is chargeable with several inaccuracies which show that Lord Eldon’s senile reminiscences of his youth are to be taken with grains of allowance. How the counsel should have allowed the committee to encroach on the privileges of the Bar, and dictate who should reply, is rather incredible; and I cannot help suspecting that the argument to prove the antiquity of the borough of Clitheroe had been premeditated, instead of being improvised. But if he asserted to Sir James Mansfield and Mr. Wilson that a house was then taken for him at Newcastle, this was “a white lye.” His supposed determination then to retire from London, on account of professional disappointments and pecuniary embarrassment, must have been pure invention, as his fortune had

been made, more than a year before, by *Akroyd v. Smithson*,—and (best of all!) *Wilson*,—having been created a Judge of the Court of Common Pleas by Lord Thurlow,—died in the year 1793, eight years before Lord Eldon was Chancellor!

It is likewise said, that he first got into the lead of civil causes on the circuit by lucky hits. I am glad that ^{A.D. 1777-}the account very generally circulated of his earliest ^{1782.} triumph in the North is not in the "ANECDOTE BOOK," as it must be fabulous. "He was retained as junior counsel in an action of assault by a Mr. Fermor against a Miss Saustern, an elderly maiden lady. His leader was absent; and, having addressed the jury, he proved by witnesses, that, the parties playing at whist, high words arose between them,—whereupon the defendant threw her cards at the plaintiff, which knocked him down. The defendant's counsel argued, 'that there was a fatal variance between the *allegata* and *probatæ*,—the declaration stating that the defendant assaulted the plaintiff with her *hand*,—whereas the assault was committed by *pieces of pasteboard* converted into missiles.' The plaintiff was about to be nonsuited, when Mr. Scott insisted 'that the proofs substantially supported the averment in the declaration of an assault committed *with the hand*; for that, in the common parlance of the card-table, which alone ought to be regarded in such a case, the 'hand' means the 'hand of cards,'—and therefore that Miss Saustern, having thrown her cards in Mr. Fermor's face, had clearly assaulted the plaintiff with *her hand*.' The Judge then overruled the objection, and the jury found a verdict for the plaintiff, with large damages."*

At times he would himself ascribe his success on the circuit to his having gained a verdict in a great mining cause against the summing up of Buller. "When I went to the ball, that evening," he would boast, "I was received with open arms by every one. Oh! my fame was established; I really think I might have married half the pretty girls in the room that night. Never was a man so courted!"

Then he would relate how, after going seven years to Carlisle without any business, he had a guinea brief delivered to him by accident, for the defendant in an assault case, where, the plaintiff's attorney's name being Hobson, he made a very obvious and bad joke about, "Hobson's choice," and induced the jury to give one penny damages. Thus he concluded his narrative: "When I record that, at the same assizes, I re-

* Last edition of Joe Miller's "Jest Book."

ceived seventy guineas for this joke—for briefs came in rapidly—I record a fact, which proves that a lawyer may begin to acquire wealth by a little pleasantry, who might long wait before professional knowledge introduced him into notice.”

But he would assert, that he was “first brought into notice on the circuit by *breaking the Ten Commandments*,”—thus explaining the enigma:—“I was counsel in a cause, the fate of which depended on our being able to make out who was the founder of an ancient chapel. I went to view it. There was nothing to be observed that gave any indication of its date or history. However, I observed that the Ten Commandments were written on some old plaster, which, from its position, I conjectured might cover an arch. Acting on this, I bribed the clerk with five shillings, to allow me to chip away a part of the plaster; and, after two or three attempts, I found the key-stone of an arch, on which were engraved the arms of an ancestor of one of the parties. This evidence decided the cause; and I ever afterwards had reason to remember with much satisfaction my having, on that occasion, *broken the Ten Commandments*.”

I may now safely dismiss the notion of his having made his fortune by any one great speech. Erskine certainly was miraculously; as it were, raised at once to the very top of his profession by his defence of Captain Baillie; but I can testify that there has been no such case for the last forty years,—I believe there have been very few such instances in any age,—and it is quite certain that Scott got on by the gradual discovery of his learning, ability, and usefulness.

While he attended most diligently to the interests of his clients, he entered with much spirit into all the gamesome proceedings of his brethren at the Bar. In the Grand Courts held for the trial of mock offences “against the peace of our Lord the Junior,” he acted a distinguished part,—inasmuch that, in 1780, he was appointed Solicitor-General, and in 1781 Attorney-General of the circuit,—being a terror to evil doers while he held these high offices,—and giving a foretaste of the activity with which he prosecuted traitors and libellers when he became a law officer of the Crown.*

* There was a corresponding field of ambition open on my circuit—the Oxford; but according to the obscurity of my career, I only reached the dignity of Cryer,—holding a fire-shovel in my hand as the emblem of my office. An epitaph was made for me, in the

Northern Circuit stories, according to the custom of Northern Circuit men, constituted the staple of Lord Eldon's jocular talk as long as he lived. I will mention a few of those which he most frequently repeated. "While Sir Thomas Davenport, a very dull orator, was making a long speech at the York Assizes, a chimney-sweeper's boy, who had climbed up to a dangerous place in front of a high gallery, having been put to sleep by him, fell down, and was killed. Whereupon I, being then Attorney-General of the circuit, indicted Sir Thomas in our Grand Court^b for the murder of the boy; and the indictment (according to the rule of law which requires that the weapon shall be described, and that there shall be an averment of its value, or that it is of *no value**) alleged that the murder was committed with 'a certain blunt instrument of *no value* called a LONG SPEECH.'

"When I first went the Northern Circuit, I employed my time, having no business of my own, in attending to the manner in which the leading counsel did their business. I left Lancaster at the end of a circuit, with my friend Jack Lee, at that period a leader upon the circuit. We supped and slept at Kirkby Lonsdale, or Kirkby Stephen. After supper I said to him, 'I have observed that throughout circuit, in all causes in which you are concerned, good, bad, indifferent, whatever their nature was, you equally exerted yourself to the uttermost to gain verdicts, stating evidence and quoting cases, as such statement and quotation should give you a chance of success, the evidence and the cases not being stated clearly, or quoted with a strict attention to accuracy and to fair and just representation.' 'Can that,' said I, 'Lee, be right? Can it be justified?' '—Oh, yes,' he said, 'undoubtedly. Dr. Johnson has said that counsel were at liberty to state, as the parties themselves would state, what it was most for their interest to state.' After some interval, and when he had had his evening bowl of milk punch and two or three pipes of tobacco, he suddenly said, 'Come, Master Scott, let us go to bed. I have been thinking upon the question that

natural expectation that I should die in this office,—thus charitably concluding.

"He of the Circuit long was Crier.

But now we hope he's somewhat higher."

^b The Grand Court is holden with a view to the discipline of the Bar, but chiefly in

the High Links fashion, to bring mock charges against the members.

* This was with a view to the dead-end, and continued to be law, till, by a bill which I had the honour to introduce and carry through Parliament in the year 1816, all dead-ends were abolished.

you asked me, and I am not quite so sure that the conduct you represented will bring a man peace at the last."

"Jack Lee, though a Yorkshireman, had attended the York Assizes several years without a brief. One day after dinner he said, 'I find a prophet has no honour in his own country, and as I have never yet received a single guinea at this place, I will shake the dust off my feet—leave it this very night, and never be seen in this room again.' Davenport and Wedderburn thereupon drew up a brief which they entitled *REX v. INHABITANTS OF HUM-TOWN*, and which in due form gave instructions in a prosecution for not repairing a road within the parish leading from Goose-green to Crackskull-common. This they sent to Lee's lodgings, with a guinea as the fee. In the evening the barristers assembled as usual in the circuit-room to sup and play at cards, and the discontented Yorkshireman appearing among them, Wedderburn said, 'Bless me, Lee, I thought you were gone!' 'Well,' said Jack, 'it is very extraordinary: I was just going, I was shaking the dust of this place off my feet as an abominable place that I never would see again, when, lo and behold, a brief is brought to me and I must stay.' 'Well,' said Davenport, 'in what cause may it be?' Lee answered, 'In the King v. Hum-town.' 'Oh dear,' cried Davenport, 'they brought me a brief in that case with a bad guinea; and I would not take it. I dare say they have given you the bad guinea.' 'I have it in my pocket,' said Lee; 'here it is.' Davenport, looking at it, said, 'Yes, the very same guinea,' and put it in his pocket. They then told him the joke they had practised upon him, that they might not lose the pleasure of his company. Although a good-natured man, he never forgave this joke, although it kept him at York, where, in a few years after, he led every cause."

As a pendant to this, Lord Eldon used to relate a story which he had actually thus recorded in his "Anecdote Book," but for which I think there could only have been a slight foundation of fact. "At an assizes at *Lancaster* we found Dr. Johnson's friend, Jemmy Boswell, lying upon the pavement—*inebriated*. We subscribed at supper a guinea for him, and half a crown for his clerk, and sent him, when he waked next morning, a brief with instructions to move for what we denominated the writ of '*Quare adhæsit pavimento*,' with observations duly calculated to induce him to think that it required great learning to explain the necessity of granting it,

to the Judge before whom he was to move. Boswell sent all round the town to attorneys for books that might enable him to distinguish himself—but in vain. He moved, however, for the writ, making the best use he could of the observations in the brief. The Judge was perfectly astonished, and the audience amazed.—The Judge said, ‘I never heard of such a writ—what can it be that adheres *pavimento*?—Are any of you gentlemen at the Bar able to explain this?’ The Bar laughed. At last one of them said, ‘My Lord, Mr. Boswell last night *adhæsit pavimento*. There was no moving him for some time. At last he was carried to bed, and he has been dreaming about himself and the pavement.’”^d —But Jemmy Boswell, who has written one of the most entertaining and instructive books in the English language, and had often pleaded causes of great importance in the Court of Session, and at the bar of the House of Lords, could not by possibility have been taken in by such a palpable hoax. The scene here described could not have been acted before the King’s Judges, but must be a reminiscence of something which had taken place in the Grand Court when the barristers were sitting in HIGH JINKS *foribus clausis*.

Lord Eldon is said to have given this amusing account of a trial at York arising out of a horse-race: “One of the conditions was, that ‘each horse should be ridden by a gentleman.’ In an action for the stakes, the question arose, ‘whether the plaintiff was a *gentleman* or not?’ After much evidence and oratory on both sides, the Judge thus summed up: ‘Gentlemen of the Jury, when I see you in that box I call you *gentlemen*, for I know you are such there; but out of that box I do not know what may be the requisites that constitute a *gentleman*; therefore I can give you no direction, except that you will consider of your verdict.’ The jury found for the defendant. Next morning the plaintiff challenged both Law and me, who were conducting the cause against him, for having said that he was *no gentleman*. We sent him this answer, ‘that we could not think of fighting one who had been found *no gentleman* by the solemn verdict of twelve of his countrymen.’”^e

^d Twiss, vol. i. ch. vi.

^e Twiss, (vol. i. ch. vi.) on the authority of Mrs. Foster. An article in the “Law Review” (No. II. p. 279), attributed to Lord Brougham, says,—“This is a great mistake. The person in question blustered and talked

big, and threatened to call out Mr. Law, who led the cause, and could alone have said the offensive words. That gallant individual put off his journey to Durham for half a day, and walked about, booted and spurred, before the coffee-house, the most public place in

He once had a narrow escape from a watery grave. From Ulverstone to Lancaster there is a short but very dangerous cut across the sands, and, being in a hurry, he was going to take it at the time of greatest peril,—when the tide was beginning to flow. But as he was setting off he asked the landlord whether any persons were over lost in going to Lancaster by the sea-shore. “No, no,” was the answer, “I think nobody has ever been *lost*—they have all been *found at low water*.”¹

To illustrate the unreasonable complaints against public functionaries, he would relate that on the circuit, stopping to bait at a place where many years before Mr. Moises had been curate, he had the curiosity to ask the landlord of the inn whether he remembered him? “Yes,” answered he with an oath, “I well remember him. I have had reason enough to remember him. It was the worst day this parish ever saw that brought him here.” The lawyer, afraid of hearing something hard on the character of his old master, said, with some solemnity, “Mr. Moises, I am certain, was a most respectable man.” “That may be,” cried Boniface, “but he married me to the worst wife that ever man was plagued with.” “Oh! is that all? that was your own fault: she was your own choice, not Mr. Moises’.” “Yes,” concluded he, unconvinced—“but I could not have been married if there had not been a parson to marry us.”

Lord Eldon had not quite as high a respect for “trial by jury” as Lord Erskine. He said, “I remember Mr. Justice Gould trying a cause at York, and when he had proceeded for about two hours, he observed, ‘Here are only eleven jurymen; where is the twelfth?’ ‘Please you, my Lord,’ said one of the eleven, ‘he is gone away about some business, but he has left his verdict with me.’”²—Once, when leaving New-

York, ready to repel force, if offered, by force—because personal chastisement had also been threatened. No message was sent, and no attempt was made to provoke a breach of the peace. It is very possible Lord Eldon may have said, and Lord Ellenborough too, that they were not bound to treat one in such a predicament as a gentleman, and hence the story has arisen in the lady's mind. The fact was as well known on the Northern Circuit as was the answer of a witness to a question, whether the party had a right by his circumstances to keep a pack of fox-hounds: ‘No more right than I to keep a pack of archbishops.’”

¹ There is an ancient office of “Guide across Ulverstone Sands,” which is in the gift of the Chancellor of the Duchy of Lancaster, and to which, upon a vacancy, I have lately appointed; so that I hope to hear no more of “bodies being found at low water.”

² This, after all, is pretty much like voting by proxy in a certain deliberative assembly; although there the fiction is, that the peer holding the proxy votes according to his own conscience; and holding two proxies, if he votes on opposite sides (as he may), he is supposed suddenly to have changed his opinion.

castle, after a very successful assize, a farmer rode up to him, and said, "Well, lawyer Scott, I was glad that you carried the day so often; and if I had had my way, you should never once have been beaten." I was foreman of the jury, and you were sure of my vote, for you are my countryman, and we are proud of you."

Mr. Scott was now very prosperous. His "OPINIONS" contained so many "ifs," and "buts," and "thoughts," A.D. 1782. that the solicitors seldom laid cases before him,—while Kenyon, giving direct answers which could be acted upon, was making, by case-answering alone, 3000*l.* a year. He was, however, a zealous and not too scrupulous advocate, and from his circuit and town practice he began to count a yearly saving, which at length accumulated into a princely fortune. Still he was fond of grumbling. Giving an account of a sinecure of 400*l.* a year, which his brother William had got in Doctors' Commons, the future Chancellor despondingly adds, "As to your humble servant, I have the younger brother's portion, a life of drudgery; our part of the profession has no places for young men, and it will wear me out before I cease to be such."

To relieve his melancholy at this period of his career, although he despised the sweetest warblings of Italian song, he would go on a Saturday night to witness the triumph of the histrionic art at Drury Lane Theatre. "You will see," says he, in a letter to a friend, "the papers are full of accounts of a Mrs. *Sidons*,^b a new actress. She is beyond all idea capital. I never saw an actress before. In my notion of just affecting action and elocution, she beats our deceased Roscius all to nothing."^c—But excitement more congenial to him was at hand.

Though he wore a stuff gown, he was rapidly getting into the lead, and was throwing worthy plodders, who June 4,
1783 were his seniors, out of business. Therefore a silk gown was offered to him without solicitation. The moving cause to the promotion which now took place was the wish to advance Erskine, who had lately so much astonished the world by his eloquence, and was a special favourite with the reigning Administration. An attempt was made to place him at the head of the batch; but Mr. Scott, who was his senior, resolutely resisted this arrangement, and obtained a patent of precedence, which preserved his relative rank among those who took their places within the bar along with him.^k

^b *Sic*.ⁱ Surtees, p. 76.^k *Vide ante*, Vol. VIII., Ch. CLXXVIII.

CHAPTER CXCIV.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HE WAS MADE
SOLICITOR-GENERAL.

HITHERTO the successful lawyer had cautiously avoided mixing at all in party politics. He was known to be a good
Dec. 1777. Oxford Tory, of genuine Church-and-King principles, which he did not seek to disguise; but in the struggles between Lord North and the Whigs, or between the different sections of the Whigs, after the death of Lord Rockingham, he had outwardly shown no interest—prudently devoting himself to his profession, without giving offence to any one. Corresponding with his brothers during the American war, he showed that he had a poor opinion of the Ministry, but thought much worse of Opposition. When the intelligence arrived of the surrender of General Burgoyne and his army, he wrote to Henry: “You could not be more deeply concerned for the fate of the gallant Burgoyne, than were your two brothers and your sister. We mingled our tears for two days together, being English folks of the old stamp, and retaining, in spite of modern patriotism, some affection and reverence for the name of Old England. All people whose hearts lie in the same direction are extremely concerned. It is totally unknown, even to themselves, what the Ministry will do: I think they want common sense and common spirit, as much as the minority wants common honesty.” He highly approved the sentiments, and he implicitly followed the advice, soon after communicated to him in a letter from Sir William: “For my own part, I am sick of politics—there is so much folly on the part of Ministers, and so much villany on the other side, under the cloak of patriotism, that an honest man has nothing to do but to lament the fate of his country, and butter his own bread as well as he can. And I hope you take care to do so.” Thus, in great perplexity, he expresses himself on the formation of Lord Shelburne’s Administration: “We seem here to think that Charles Fox can’t get in again, and that Lord Shelburne cannot keep in, and that Lord North may rule the

roast again whenever he pleases. I like the language of Lord North, better than that of any other man or set of men in the House, upon the subject of peace: all parties but his seem to be struggling who can give up most of the old rights of Old England."

However, when the "inglorious peace" had been censured by a vote of the House of Commons, and the "Coalition" had stormed the royal closet, Lord Thurlow, A.D. 1783. leading the Opposition, with the zealous aid of the King, urged Mr. Scott to enlist as a recruit under his banner,—arguing that, on public grounds, the Crown ought to be supported,—and pointing out the ambitious prospects which must open to him if he became a "King's friend," as soon as his Majesty should be rescued from the bondage to which his Majesty had been reduced, but which his Majesty was determined not to bear. A regard for principle and for personal advantage recommended the proposal to one so much attached to the King and to himself,—and he yielded. The ex-Chancellor undertook to procure him a seat in the House of Commons, and speedily succeeded through Lord Weymouth, owner of the borough of Weobly,—now, alas! disfranchised.^m A stipulation being easily made, that "his conduct in parliament should be entirely independent of Lord Weymouth's political opinions,"—which corresponded exactly with his own,—he posted down to Weobly with the *congé d'élire* in his pocket, and, according to ancient custom, he proceeded to the house that contained the prettiest girl in the place, and began his canvass by giving her a kiss. At the hustings, the ceremony of election was to have been quietly gone through as usual, but he was addressed by a very old man, who said, with a true Herefordshire accent, "We hear how as you be a la'er, and if so be, you ought to tip us a speech—a thing not heard in Weobly this thirty year; and the more especially as Lord Surey has been telling the folks at Hereford as you be a Newcastle-upon-Tyne gentleman, sent down by a peer, and not having no connection with this here place." Lord Eldon gave the following good-humoured account of the fresh effort

^m I have already pointed out,* and I will not again dwell upon, the palpable misrepresentation of Lord Eldon respecting Fox's wish to have had Thurlow for Chancellor to the Coalition Ministry.† I must say, that on various occasions in Lord Eldon's old age his memory had failed him, or he conceived himself justified in using considerable liberties with truth.

he was driven to make as a mob orator—when he seems to have succeeded much better than in his native town.

"I got upon a heap of stones, and made them as good a speech upon politics in general as I could, and it had either the merit or demerit of being a long one. My audience liked it, on account, among other things, of its length. I concluded by drawing their attention to Lord Surrey's speech. I admitted that I was unknown to them. I said that I had explained my public principles, and how I meant to act in Parliament; that I should do all I had promised; and that, though then unknown to them, I hoped I should entitle myself to more of their confidence and regard than I could have claimed, if, being the son of the first Duke in England, I had held myself out as a reformer whilst riding, as the Earl of Surrey rode, into the first town of the county, drunk, upon a cider cask, and talking, in that state, of 'reform.' My audience liked the speech, and I ended, as I had begun, by kissing the prettiest girl in the place;—very pleasant, indeed. Lord Surrey had often been my client, even at that early period of my life. He had heard of, or read my speech; and, when I met him afterwards in town, he good-humouredly said, 'I have had enough of meddling with you; I shall trouble you no more.'"

Of course he was returned without opposition. He took his seat before the prorogation of Parliament, but reserved his maiden speech till the ensuing session.

Then came the most deadly struggle recorded in our party annals. As I have already had occasion to state, Scott and Erskine, the hopes of the opposite parties, spoke for the first time in the debate on Fox's India Bill,—and both egregiously failed." The Honourable Member for Weobly very characteristically required "more time to make up his mind upon the measure," but "was nevertheless clear to say that it seemed to him rather of a dangerous tendency; but he would not declare against it; he would rather wait till he got more light thrown upon the subject; and as he was attached to no particular party, he would then vote as justice seemed to direct. He meant hereafter to give an opinion upon the Bill; he could assure the House he would form it elaborately, and when he gave it, it should be an honest one." Mr. Fox good-naturedly paid a compliment to the new member's professional reputation, but "could not refrain from remarking on his inconsistency; for, after stating the necessity for time to deliberate on the Bill, he had immediately, without any opportunity for deliberation, ventured to pronounce a decision against it, and with a good deal of positiveness."

To repair his misfortune, Scott formed the most insane scheme that ever entered the mind of a sensible man. He resolved, in the debate on the third reading of the Bill, to be revenged on Fox, by imitating the manner of Sheridan, and becoming witty and sarcastic. Accordingly, from a volume of *Elegant Extracts*, a new edition of Joe Miller, and the Bible, he crammed himself with quotations, jokes, and texts, as laboriously as if he had been preparing to argue a case upon a contingent remainder before the twelve Judges. He began however, *more suo*, by alluding to certain insinuations, "that agreeably to the common conduct of lawyers, he would not scruple to espouse any cause which he should be paid to defend. In the warmest terms he reprobated such unworthy imputations: he asserted the reluctance of his nature to such practices, and he declared that on this occasion he considered it his duty to deliver his sentiments—the solemn sentiments of his heart and conscience." Then, without having at all prepared his audience for the transition, he came to his *facetie*, and, alluding to the popular caricature upon Mr. Fox as "CARLO KHAN," he affected to speak very courteously of the Whig chief, and observed, "As Brutus said of Cæsar—

. . . . 'he would be crown'd'
How that might change his nature,—there's the question."

In a moment the orator plunged into Scripture, saying, "It was an aggravation of the affliction that the cause of it should originate with one to whom the nation had so long looked up; a wound from him was doubly painful. Like Job, he gave the shake of friendship, but the other hand held a dagger with which he despatched the Constitution." He next pulled a New Testament from his pocket; and, after a proper apology for again alluding to any thing recorded in sacred writ, read some verses in different chapters of the book of Revelation, which seemed to express the intended innovations in the affairs of the East India Company: "And I stood upon the sand of the sea, and saw a beast rise out of the sea, having seven heads and ten horns, and upon his horns ten crowns. And they worshipped the dragon which gave power to the beast; and they worshipped the beast, saying, Who is like unto the beast? Who is able to make war with him? And there was given to him a mouth speaking great things; and power was given unto him to continue forty and two months." ["Here," said Mr. Scott, "I believe there is a mistake of six

months."P] "And he causeth all, both small and great, rich and poor, to receive a mark in their right hand, or in their forehead." [Here places, pensions, and peerages are clearly marked out.] "And he cried mightily with a strong voice, saying Babylon the Great" [plainly the East India Company] "is fallen, and is become the habitation of devils, the hold of every foul spirit, and the cage of every unclean bird." Having at great length continued to read these prophecies, and to show their fulfilment, he came to Thucydides, where the Athenian ambassadors observe to the Lacedæmonian magistrates, that "men are much more provoked by injustice than by violence, inasmuch as injustice coming as from an equal, has the appearance of dishonesty, while mere violence, proceeding from one stronger, seems but the effect of inevitable necessity." Steering from grave to gay, and throwing in some Oxford puns, he anticipated that the new Kings, who were to supersede the Directors, might in their turn be pronounced inadequate to the government of so remote a country; "and then," said he—

. "de te
Fabula narratur."

He at last concluded by pathetically comparing the Directors of the East India Company to the wife of Othello, about to be murdered in her bed: "They cry out for some respite,—they plead, like Desdemona, 'Kill me to-morrow—let me live to-night—but half-an-hour.' When that prayer was rejected, a deed was done which was repented too late."Q

The House seems to have listened with much amazement to this pedantic jumble of profane and scriptural, humorous and pathetic, quotations from the mouth of a lawyer. But he was the cause of wit in other men, and much merriment followed in allusions to him during the remainder of the debate. Sheridan, in particular, feeling that his province was invaded, is said to have been cruelly severe upon legal oratory: but, luckily for our order, all that the "Parliamentary History" records is, that "he cited, with most happy ease and correctness, passages from almost the same pages—which controverted these quotations, and told strongly for the Bill; he quoted three more verses from the Revelation, by which he metamorphosed the beast with seven heads with crowns on them, into seven angels clothed in pure and white linen."R

P The Bill was to be in force only for months.
three years,—*thirty-six* instead of *forty-two*

Q 24 Parl. Hist. 33.

R lb. 51

Mr. Scott was sadly chagrined by the result of his attempt to be lively; and henceforth, reading the Bible only for spiritual edification, he renounced the other books which he had quoted, and all such trumpery, for the rest of his days. In his parliamentary efforts he trusted thenceforward to legal learning, metaphysical subtlety, strong good sense, and frequent appeals to his conscience. He never acquired the fame of a good debater, but he sometimes spoke with considerable weight and effect, and he was a useful ally in both Houses of Parliament.

The Coalition Ministry being dissolved on the rejection of Fox's India Bill in the House of Lords, and Mr. Pitt being Prime Minister, it was thought legal promotion was now open to Mr. Scott; and it is believed that Lord Thurlow, on recovering the Great Seal, made an effort to have him made Solicitor-General. But Mr. Pitt insisted on appointing Pepper Arden, saying that "the member for Weobly,—for whom he professed much respect, notwithstanding his quotations,—must be contented to take his turn in professional promotion after his seniors."

Although the party to which Mr. Scott had attached himself was, by a combination of lucky chances, and by the splendid talents of its chief, firmly possessed of power, he had been five years in Parliament before he attained office; which ought to soften the discontent of young lawyers, who are apt to think that they are ill-used, and to despond, if they are not made law officers of the Crown, or Judges, as soon as they are returned to the House of Commons. During this interval he steadily supported the Government, although he once or twice followed a course which prudence, as well as conscience, recommends,—by showing that he could form an opinion of his own, and that, if not properly appreciated by the Minister, he might become a formidable antagonist.

He gallantly combated the motion of the Coalitionists to stop the supplies when the King refused to dismiss his Ministers on the Address of the House of Commons, saying, "I advise Ministers not to think of a resignation: at present they have the people on their side,—many of whom, in petitions to the Throne, speak very different language from that of their representatives in this House." Feb. 20, 1784.

As the struggle proceeded, the King and the Premier becoming daily more popular, and public indignation being

strongly roused against Mr. Fox and Lord North, the time was come—which had been wisely “*bided*”—for an appeal to the people. While this was expected, Mr. Scott wrote to his friends at Newcastle: “No dissolution to-day; life promised by Pitt till Monday, and no longer promised; but whether to be enjoyed, doubtful. Both our Newcastle members voted against us last night; but the majority, you see, crumbles; and if it was not for North’s myrmidons, which he bought with the Treasury money, we should have a complete triumph. I told the Chancellor to-day, that he ought to resign, or dismiss us. But what will be done, or what will become of the country, God knows. I have the offer of two other seats in Parliament *gratis*; but I shall keep my old one.”

Accordingly, on the general election, he was again returned for Weobly; and, close as the borough was, he was obliged to show himself there—leaving his briefs and fees at the Lancaster Assizes—which he said “he could ill afford,”—although he must now have been in the receipt of a large professional income.

The first occasion of his speaking in the new Parliament was on the Westminster scrutiny—when he justly gained great credit. The election for this city, instead of being over in one day, according to our fashion, had lasted from the 1st of April to the 16th of May, the day on which Parliament was summoned to meet; and although Mr. Fox ought clearly to have been returned, the High Bailiff, from corrupt motives, at the request of Sir Cecil Wray, granted a scrutiny. This proceeding was most improperly countenanced by Mr. Pitt and the majority now at his command. But in the month of March in the following year the scrutiny had made little progress, and there seemed a strong probability that before it was concluded Parliament would be dissolved. The case was so flagrant, that after several divisions, on which the numbers in favour of the Government gradually lessened, a resolution was carried, ordering the High Bailiff to make an immediate

Feb. 1, return,—and this Mr. Fox followed up with a motion,
1785. that all the former proceedings respecting the scrutiny should be expunged from the Journals. The motion was supported by Mr. Scott, against whose prior votes on this subject some sarcasms were levelled. He seems to have taken a most masterly view of the whole subject, although the printed report of his speech is so defective that we can form

but an inadequate notion of its merit. From the principles of the common law, and the statutes for regulating elections since the reign of Henry IV. down to that of George III., he deduced the doctrine "That the election must be *finally* closed before the return of the writ, and that the writ must be returned on or before the day specified in it:"—

"At the same time," he added, "that I condemn the scrutiny, I should be sorry to be supposed to impute improper motives to those who have voted for it. I am willing to give them credit for purity of intention; they were wrong only in judgment. They had a very unnecessary tenderness for the conscience of the High Bailiff, which they say they would not torture by compelling him to make a return before he should have thoroughly scrutinized his poll: but surely his oath does not bind him to any thing more than to make his return to the best of his judgment, in the time which the law allowed him to satisfy his conscience. To make him do this speedily, is no more to torture his conscience, than you torture the conscience of jurymen by compelling them to find their verdict before they are permitted to eat, or drink, or to warm themselves at a fire. Indeed, the prompt obedience he has paid to the order of the House, communicated to him in consequence of the vote of last week, shows that his conscience is not of the most delicate texture; for, as it would have been tyrannical in the House to attempt to force his conscience, so it would have been unchristian in him to violate his conscience merely to obey an unjust order. But he did not require, it seems, much time to make up his mind when the House commanded him. Why, then, should he not have paid as prompt an obedience to the mandate of the King's writ? I confess I do not like that conscience in returning-officers, under colour of which they may prevent the meeting of Parliament for ever, or at least present the nation with the rump of a Parliament on the day when the representatives of the whole nation ought to assemble."

He was not only listened to with the marked attention which any member speaking against his party is sure to command, but his playfulness on "*conscience*" exceedingly tickled his hearers, and he sat down amidst loud shouts of applause from the Opposition benches." Mr. Fox, commenting on the speeches of the different speakers who had taken part in the debate, said, "One learned gentleman in particular (the honourable member for Weobly) has entered into the whole of the case, with a soundness of argument, and a depth and closeness of reasoning, that perhaps has scarcely been equalled in the discussion of any topic within these walls, that turned on the statute and common law, on the analogy of writs, and

the combination of technical and constitutional learning. So well and so ably, indeed, has that learned gentleman A.D. 1788. argued it, that nothing like an answer has been offered to any one of his appeals to his brethren of the long robe. In truth, I am convinced it is out of the power of ingenuity itself to overthrow the positions laid down by that learned gentleman—to whom I will offer no apology for any allusion I may have made to him on a former day; and I consider myself peculiarly happy in having been able to say any thing that could draw forth so masterly and instructive a speech." Mr. Scott found himself in a minority of 137 against 242; but he enhanced his importance with the Minister by this instance of independence, and he secured respectful treatment from the leader of Opposition. Towards the close of his life he observed, "Fox never said an uncivil word to me during the whole time I sat in the House of Commons; and I'll tell you to what I attribute that. When the legality of the conduct of the High Bailiff of Westminster was before the House, all the lawyers on the Ministerial side defended his right to grant the scrutiny. I thought their law bad, and I told them so. I asked Kenyon how he could answer *this*,—that every writ or commission must be returned on the day on which it is made returnable." He could not answer it. Fox afterwards came to me, and said something very civil and obliging.*

Mr. Scott, immediately after this *escapade*, returned to his allegiance to Mr. Pitt from which he never again swerved. He still considered himself, however, as more particularly under the auspices of Lord Thurlow, to whom he owed his seat, and who evinced a strong desire to push him forward. For this reason he warmly espoused the cause of Warren Hastings, and made a speech in his favour on the very serious charge of the Rohilla war. In concluding, he alluded, with just severity, to an observation made the preceding day by Mr. Fox, who had said "that he would always watch gentlemen of the profession of the law in their arguments." Mr. Fox now very handsomely declared, "that none but a fool or a madman would disparage or despise the legal profession. He had a very high regard for it, and for the learned gentleman in particular, whose great abilities and high character entitled him to universal respect. He assured the House and the learned gentleman, that he meant nothing more by saying that 'he would watch the arguments of gentlemen of that pro-

* Twiss, i. 121.

fession, than that the gentlemen of the law, from being in the habits of a peculiar style of reasoning, were apt to infuse that style into their arguments in that House.”^y

In the following session of Parliament, Mr. Scott spoke ably in defence of the principles of free trade in support-^{March 8, 1787.} ing the commercial treaty with France against the very unjust and illiberal attacks of the Whigs. Having charged them with having had a similar plan in contemplation when they were in office, he said, “I am happy that the measure is now accomplished in a manner which promises a great accession of wealth to England, and holds out the most liberal encouragement to her artisans,—whose industry, skill, and perseverance, joined to their prodigious capital, must ever insure them superiority over all competitors.”^z

He now received his first judicial appointment, being named by Bishop Thurlow Chancellor of the County Palatine of Durham. He therefore ceased to attend the assizes at Durham as a counsel, and presided in his own Court with all proper solemnity. Here he was very little troubled with equity business. We only know of one case which came before him, and that was not *contentious*; but he made the most of it. Upon an application to direct an allowance to a minor, then at college, who would be entitled, when of age, to an income of about 300*l.* a year, he thus addressed the ward of the Court:—

“Young gentleman, you will shortly become entitled to a small property, which may prove to you either a blessing or a curse, according as you use it. It was, perhaps, fortunate for me that I was not situated in my early life as you are now. I had not, like you, a small fortune to look to; I had nothing to depend on but my own exertions: and, so far from considering this a misfortune, I now esteem it a blessing; for if I had possessed the same means which you will enjoy, I should in all probability not be where I now am. I would therefore caution you not to let this little property turn your mind from more important objects; but rather let it stimulate you to cultivate your abilities, and to advance yourself in society.”

Mr. Pitt, for some mysterious reason, having suddenly abandoned Hastings, and—contrary to the wish of Lord^{A.D. 1788.} Thurlow, who had a scheme for making him a Peer, perhaps a Minister—having given him up to impeachment, Mr. Scott took no part in the subsequent proceedings against him; *

^y 25 Parl. Hist. 58.

^z 26 Parl. Hist. 505.

* I have not been able to ascertain even

how he voted on the Benares charge, when Mr. Pitt went over so abruptly that his own Attorney-General would not follow him.

but he resolutely defended Sir Elijah Impey, charged with having illegally hanged the great Brahmin, Nuncomar; and he struggled against the attempts to prejudice the cause of the accused Judge by the admission of improper evidence,—enlarging on the necessity for adhering to the rules of law in all proceedings in any sort tending to a judicial determination. In consequence, Mr. Fox, in a tone very unusual with him, “attacked the lawyers with a good deal of warmth and asperity, for coming down in a body to juggle and confound the members of that House.”^b

Mr. Scott, before he was Solicitor-General, chiefly made himself prominent in the House of Commons by speaking in favour of a bill—which caused much excitement at the time, but has now lost all interest—for declaring “that the East India Company, according to the just construction of the India Bill, 24 Geo. 3, c. 25, was liable to repay to the Government at home the charges of sending a military force to the East Indies.” Erskine, then out of Parliament, was heard at the bar of the House of Commons, as counsel for the Company, and strongly animadverted on certain arguments of Mr. Scott to prove the liability of his clients, contending that, at all events, the Legislature was here usurping judicial functions, and that the question ought to be decided by a Court of Law.—Mr. Scott, on several occasions, defended his opinion, and insisted that this was a fit occasion for Parliament, by a declaratory Act, to pronounce what its intentions really were. Mr. Sheridan, Colonel Barré, and other Opposition members, furiously assailed the arguments of the honourable and learned member for Weobly in this controversy:—but the position he had acquired in the House may best be estimated from the laboured attack upon him by Mr. Francis (pretty generally supposed to be Junius), in which the orator, with much unmerited abuse of the individual and his order, animadverts with some felicity on his inveterate habit of lauding his own honesty:—

“This is not a legislative question, and it is absurd for Parliament to ask lawyers what it meant by its own act and deed? In this House, to be sure, we have every assistance that learning and practice can afford. We have a learned person (Mr. John Scott) among us, who is universally acknowledged to be the great luminary of the law, whose opinions are oracles, to whose skill and authority all his own profession

look up with reverence and amazement. Well, Sir, what information have we gained from that most eminent person? I will not attempt to follow or repeat so long, and, as I have been told, so ingenious an argument. Ingenuity, it seems, is the quality which is chiefly wanted and relied on, on the present occasion. But I well remember the course of it. The first half hour of his speech, at least, was dedicated to himself. He told us who he was: he explained to us, very distinctly, the whole of his moral character, which I think was not immediately in question; and assured the House that his integrity was the thing on which he valued himself most, and which we might with perfect security rely on. Of his learning, I confess he spoke with more than moderation,—with excessive humility. He almost stultified himself, for the purpose of proving his integrity. For the sake of his morality, he abandoned his learning; and seemed to dread the conclusions that might be drawn from an overrated opinion of his excessive skill and cunning in his profession. In my mind, Sir, there was no occasion for this extraordinary parade. The learned gentleman's reputation in private life, I believe, is unimpeached. What we wanted, what we expected of him, was his learning, not his character. At last, however, he proceeded to the subject of debate. Here we were all in profound silence: attention held us mute. Did he answer your expectation? Did you perfectly understand him? Did he perfectly understand himself? I doubt it much. If he had understood, he could have explained himself to the meanest capacity. If you had distinctly understood him, you might distinctly remember what he said. Now, setting aside those who have been initiated in the mysteries of the profession, is there a man here who can remember and is able to state the learned gentleman's arguments?—I believe not. For my own part, though it is impossible for me to listen with more attention than I did, I confess I soon lost sight of him. At first, indeed, he trifled with the subject, in a manner that was intelligible at least, perhaps dexterous, though not conclusive. He argued some little collateral points with a good deal of artifice: he made many subtle argumentative distinctions; he tried at least to involve us in nice, logical difficulties, and to drive us *ad absurdum* by what he called unavoidable inferences, from false premises. In short, he attacked or defended some of the out-posts of the questions, with what I suppose is held to be great ability in Westminster Hall. He skirmished well at a proper distance from the main body of the subject. All this I acknowledge. But when he came at last to the grand point, at which we had waited for him so long, at which we had impatiently expected the predominant light of his superior learning,—the decision of the oracle,—did he resolve your doubts? Did he untie, or did he cut, the Gordian knot? Did he prove to you, in that frank, plain, popular way in which he ought to have addressed this popular assembly, and which he would have done if he had been sure of his ground,—did he demonstrate to you, that the Act of 1784, clearly and evidently, or even by unavoidable construction, gave the power declared by the present Bill? Sir, he did no such thing. If he did, let us hear

it once more. He who understands can remember. He who remembers can repeat. I defy any man living, not a lawyer, to recite even the substance of that part of his argument. The truth is, he left the main question exactly where he found it. So it generally happens. It belongs to the learning of these gentlemen and to their prudence not to decide. It is so now. It was so 2000 years ago."—Having given an account of the consultation in Terence, after which the old gentleman who had desired the opinion of three lawyers on the validity of his son's marriage, exclaimed *Incertior sum multo quam dudum*, he continued, "Well may the Court of Directors,—well may this House make the same observation on the present occasion. In the name of God and common sense, what have we gained by consulting these learned persons? It is really a strange thing, but it is certainly true, that the learned gentlemen on that side of the House, let the subject be what it may, always begin their speeches with a panegyric on their own integrity. You expect learning, and they give you morals; you expect law, and they give you ethics; you ask them for bread, and they give you a stone. In point of honour and morality, they are undoubtedly on a level with the rest of mankind. But why should they pretend to more? Why should they insist on taking the lead in morality? Why should they so perpetually insist upon their integrity as if that objection were *in limine*, as if that were the distinguishing characteristic, the prominent feature, of the profession? Equality is their right. I allow it. But that they have any just right to a superior morality, to a pure and elevated probity, to a frank, plain, simple, candid, unrefined integrity, beyond other men, is what I am not yet convinced of, and without new and unexpected proofs never will admit."^c

The Bill was sure to be carried by the overwhelming majorities which the Minister commanded, but the credit of the Government on this occasion was mainly supported by Mr. Scott—the Attorney and Solicitor-General not having any weight in the House.

The expected promotion in the law had been long delayed by intrigues respecting the appointment to the offices of Chief Justice of the King's Bench and Master of the Rolls, but at last, on the resignation of Lord Mansfield, Sir Lloyd Kenyon succeeded him,—Pepper Arden, in spite of Thurlow, was made Master of the Rolls.—and Sir Archibald Macdonald being promoted to be Attorney-General, John Scott, Esq., was, to the high contentment of the Bar, and the general satisfaction of the public, appointed Solicitor-General.

There were great rejoicings at Newcastle, particularly when the good folks there knew that their townsman had be-

^c 27 Parl. Hist. 263. For Mr. Scott's speeches on this subject, see 27 Parl. Hist. 37, 86, 186, 196.

come SIR JOHN. He modestly wished to avoid knighthood, but George III. then laid down a rule, which has been adhered to ever since, that the Attorney and Solicitor-General, and the Judges, if not "honourable" by birth, shall be knighted,—to keep up the reputation of the ancient order of Knights-bachelors,—and the ceremony ought to be cheerfully undergone by them, as an accompaniment of professional promotion. On this occasion, Macdonald, who, though Solicitor-General for some years, had remained "plain Archy," now knelt, and rose SIR ARCHIBALD.

Sir John Scott gave an amusing account of his elevation in the following letter to his brother Henry :—

"DEAR HARRY,

"I kissed the King's hand yesterday as Solicitor-General. The King, in spite of my teeth, laid his sword upon my shoulder, and bid *Sir John* arise. At this last instance of his royal favour, I have been much disconcerted ; but I cannot help myself, so I sing—

' Oho, the delight
To be a gallant knight !'

I was completely taken in, having no idea that the King had any such intention. My wife is persecuted with her new title, and we laugh at her from morning till evening.—Be so good as with my best love to communicate this intelligence to my brother and sisters. Bessy joins in affection to your wife and Mary, and I am

" Yours faithfully,

" J. SCOTT." ^d

He had to go through the form of a re-election for Weobly, and he again treated the electors with a speech, in which he assured them, that, "though in office under the Crown, he would continue to be a faithful guardian of the rights and liberties of the people."—The session of Parliament was closed almost immediately after he resumed his seat in the House of Commons, and there was an unexampled cessation of all political excitement. The Whig party seemed for ever annihilated ; its leaders, still labouring under the unpopularity they had incurred by the "Coalition," had almost entirely ceased to offer any show of opposition to the measures of Government,—and the country, rapidly advancing in wealth and prosperity after the disasters of the American war, hailed the choice of the Sovereign as a "heaven-born minister." There

^d Twiss, i. 131.

was likewise profound peace abroad, and England was respected and courted by all foreign nations.

It was expected that the new law officer, till in due gradation he was raised to the Bench, would never have any more anxious duty to perform than to sign a patent of peerage, or to prosecute a smuggler in the Court of Exchequer.

In the absence of all official business, he took the very unusual step of going the round of the Northern Circuit—although professional etiquette has always been understood to require that a barrister, being appointed Attorney or Solicitor-General, shall immediately give up his circuit—which often produces great peril, and sometimes serious loss, when the administration which he joins is in a state of caducity. But I do not find that any complaint was made on this occasion, as when Mr. Wedderburn first joined the circuit with a silk gown. There was not even an “Information of Intrusion” filed against Sir John Scott by the Attorney-General in the Grand Court, and he ever continued on the best terms with all his professional brethren. He took final leave of the circuit at Lancaster, but for the rest of his days his great delight was to talk of the “Grand Court,”—and we shall see that when he was ex-Chancellor a new generation of circuiters took occasion to testify unabated regard for him.*

* By a special grace (passed unanimously at a Grand Court held at York on the 12th of July, 1847, for which I am most deeply grateful), I have had access to the Records of the Northern Circuit, and I extract from them some interesting entries respecting Lord Eldon:—

“York Grand Night, Sat. Mar. 16, 1782.

“Mr. Atty. Gen. Scott* mention’d, that he had no sooner arriv’d in York than a play-bill was put into his hands, in which, to his great astonishment, he found the respectable names of many of his brethren on the Circuit. The play of the *Clandestine Marriage* was to be performed for the benefit of Mr. Back. Mr. Smith was to lay aside the peaceful gown and array himself in a military habit; and a very distinguishable and conspicuous part was to be perform’d by Mr. Taylor, who appear’d there in his proper character, not as

the two former gentlemen, in such a masquerade dress that Mr. Atty. Gen. cou’d not produce any witness who cou’d take upon him to swear to the identity of their persons, but Mr. Law being called upon, depos’d that he saw Mr. Taylor appear on the stage in his bar wig acting the part of Counsellor Traverce in the *Clandestine Marriage*, and tho’ Mr. Taylor acted the Counsellor then, as he always does, in an immitable manner, yet the Court was of opinion that, by appearing on the stage in that habit, he rather lessen’d the Dignity of the Wig, and therefore fin’d him 1 Bottle. *pd.*

“Mr. Arden † in a speech this morning had made use of the following expressions—‘No man wou’d be such a damn’d fool as to go to a lawyer for advice who knew how to act without fit.’ In this he was consider’d as doubly culpable—in the first place as having

* He had been appointed Attorney-General to the Circuit, with the duty of prosecuting all offences before the Grand Court presided over by our Lord the Junior.

† Pepper Arden, afterwards Master of the Rolls and Lord Alvanley.

CHAPTER CXCIV.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HE BECAME
ATTORNEY-GENERAL.

NEVER was there in England such a sudden change in the aspect of public affairs as in the autumn of this year: scarcely had the Solicitor-General returned to London, contemplating an indefinite prolongation of ease and

A.D. 1788.

offended against the laws of Almighty God by his profane cursing, for which however he made a very sufficient atonement by paying a bottle of claret; and, secondly, as having made use of an expression which, if it should become a prevailing opinion, might have the most alarming consequences to the profession, and was therefore deservedly consider'd in a far more heinous light, for this last offence he was fined 3 Bottles. pd.*

"Mr. Scott laid Mr. Davenport 5 guineas that Lord Ashburton* will be Chief Justice of the King's Bench before he dies. The bet was made at York in the presence of Mr. Withers, but not being communicated to the Junior at that time, he had no opportunity of recording it sooner."

"Lancaster Grand Night, Saturday,
29th March, 1783.

"Jn^o. Scott, Esq^r., for having come into Lancaster the day before the Commission day, and having taken up his abode that evening at the King's Arms in Lancaster, fined one gallon, pd. 1s.

"York Grand Night, Thursday,
7th August, 1783.
£. s. d.

"Mr. J. Scott was congratulated
on his Patent of Precedence,
2 gall^s. pd. 2 2 0

"Mr. J. Scott was also congratulated
on his Election for
Weobly, 1 gal. pd. 1 1 0

"Lancaster Grand Night, 27 March, 1785.

"Mr. Serjt. Bolton rose and moved (having

first prefaced his motion with an eloquent address to the Court), 'that John Scott, Esq., be congratulated in a bottle on his lively expectations of succeeding to a Trusteeship in the East India Company'—ordered accordingly—pd 1 bottle.

"John Scott, Esq^r., having pleaded guilty to a charge exhibited against him by an honorable and learned member, of having condescended (in derogation of the honour of this Court, and in contempt of its great authority) to ask leave of absence of the House of Commons, was fined 1 gall^s. paid.
"Ordered accordingly."

"Lent Assizes, Lancaster Grand Night,
1 April, 1786.

"Mr. Scott for having debased himself so much as to ask leave of the House of Commons to attend this Circuit, was fined 1 gallon, pd."

"Mr. J. Scott having been appointed Chancery of Durham, was congratulated thereupon by the title of 'His Honour,' in 3 gallons by consent, pd.

"Mr. Lee, as a suitor to His Honour's Court, was congratulated on the security of his title to his estate under the administration of His Honour. 1 gall. pd."

"Lancaster Grand Night, Aug. 6th, 1788.

"The Sol^r Gent., J. P. Heywood, rose and mov'd that Sir John Scott, Knt., Sol^r Gent. to his Majesty, might be congratulated on his appointment to the high office of Sol^r Gent., and on his being made a Knt.—that he might be condoled with for having lost his seat in

* Dunning.

office, when he found himself involved in the most tremendous political crisis that had occurred since the Revolution of 1688—with almost a certainty of being immediately turned adrift with all his party. The rumours spread of the King's aberration of mind were unhappily confirmed by his Majesty's demeanour at a levée, which he insisted on holding in the end of October; and on the 20th of November, the day to which parliament stood prorogued, the royal authority was in complete abeyance, his Majesty's intellect being much disturbed, and his person being under restraint.

Sir John Scott ably supported the course which the unpopularity of the Heir Apparent and his Whig favourites enabled Mr. Pitt successfully to take on this occasion, contrary (I think) to all the principles of an hereditary monarchy; which was to assert a right in the two Houses of Parliament to elect any person Regent whom they should prefer, with such powers as they should think fit to bestow upon him.—When the resolution embodying this doctrine was moved in the House of Commons,—

“The Solicitor-General contended that the King was still in contemplation of law as perfect as ever, and the positive right of the Prince of Wales to the regency was in the present case clearly undefined. No precedent, no analogy, could be furnished from the legal records of the Constitution, that established it as a right: no provision, then, having been made by law in the present conjuncture of affairs, Parliament was called upon to establish a precedent, which the contingency of past ages had not furnished.”

On a subsequent day he thus reasoned the question, whether the form should be adopted of putting the Great Seal, during the King's incapacity, to a commission for opening Parliament, and giving the royal assent to the Regency Bills.—

Earl*,—and congratulated on his re-election

	£.	s.	d.
“He was accordingly congratulated on his being made Solicitor-General	2	2	0
Knighted	2	2	0
Condolled with for the loss of his seat in Parlt.	1	1	0
Congratd re-election	1	1	0

“Sir J. Scott then rose, and stated that by 3^d Act 14 Hen 8, c. 36, s. 72, he had a right to appoint a chaplain, and that he wished to shew every respect to the Court. He therefore moved that the Lord Bishop* immediately ordain Peters, and that he would sign his nomination. He was immediately ordain'd a grand procession with flambeaux conducted him round the table to the Bishop.”†

* The Circuit had then an officer called “Bishop.”

† This is the last time Scott appears on the Circuit.

"Will any man dare to express a doubt whether the King sits on the throne or not? For my part I am determined to support the law, because the law supports the King on the throne. The throne is at present full of the Monarch, and no man dares to say that his Majesty is deficient in his natural capacity. I will therefore vote for the Commission upon the simple ground of preserving the forms of the Constitution; and be it remembered that upon the preservation of the forms depends the substance of the Constitution. The parliament held in the first year of Henry VI. was a perfect legislature, consisting of King, Lords, and Commons, although the Seal was put to the Commission for opening it by a babe of nine months old. It has been said, that if the two Houses can thus procure the Royal assent to the Regency Bill, they may proceed to pass other Bills in the same way. But the right which necessity creates, is limited by the same necessity. As a justification of the use of the Great Seal in the King's name, I must observe that, notwithstanding his Majesty's temporary incapacity,—in the eye of the law his politic capacity remains entire. Therefore, there would be no illegality in passing a Regency Bill in his name, and in no other way can a regent be lawfully appointed. The succession to the throne is undoubtedly hereditary, but the wisdom of ages has left it to the two Houses of Parliament to provide for the exercise of the Government on an emergency like this. If a commission had been sealed for opening the Parliament before the two Houses met on the 20th of last month, I am of opinion that it would have been legal.[†] Gentlemen may talk as they please about *legal metaphysics*; the law is as I have explained it. An honourable member has said, 'If you can by putting the Great Seal to a commission make a legislature, why did they not drag the Thames for the Great Seal at the Revolution, and go on passing bills, without calling in William and Mary?' I answer to the honourable member, Let the throne be vacant, and I care not where the Great Seal is! When the throne is vacant, every function of the Executive Government is at an end; the Courts of justice do not sit. But let the House remember that the Courts of justice are now sitting, and the Judges are administering justice in the King's name upon the very maxim, that the political capacity of the King is entire. At the Revolution, the throne being vacant, the Great Seal was inoperative, there being no Sovereign in whose name acts of state could be done; but William, the great deliverer of the nation, after the legislature was complete, passed a statute giving legal validity to the proceedings of the two Houses during the interregnum. I conclude with solemnly protesting that the opinion I have given proceeds from principle only—and is uninfluenced by any motive but a regard for the Constitution and a reverence for the wisdom of ages."[‡]

[†] This bold doctrine, which even supercedes the two Houses of Parliament—vesting supreme power in the person who, for the time being, is in possession of the Great Seal, may, perhaps, account for Lord Eldon's conduct on

some occasions as Chancellor,—when he put the Great Seal to commissions under warrants signed by the King while in the custody of his medical attendants.

[‡] 27 Parl. Hist. 825.

When the proposal came to be debated of vesting in the Queen the power of appointing to all the offices in the Household, Sir John Scott said,—

Jan. 19,
1789.

“When gentlemen tell me that by withholding from the Regent the patronage of the Royal Household they would be guilty of a breach of the Constitution, let them explain how I am to discharge my allegiance to the Sovereign on the Throne, without taking care that his resumption of his royal authority may be rendered as little difficult as possible. I do not speak with indelicacy towards the Prince of Wales if I show that jealousy which belongs to my character as a member of Parliament—which it is my duty to show to the other branch of the Legislature, and to the Executive Government. If the sense of the people be taken at your bar, or in any other way, the language they would hold would undoubtedly be, ‘What! could you not do your duty for three short months? Were you so hasty to dethrone your lawful Sovereign, that you treated him with the grossest disrespect, and stripped him of every mark of regal dignity and distinction, after he had been ill no longer than a month?’ Do gentlemen seriously argue that the Regent, with the army, the navy, the church, and all the offices connected with the public revenue at his command, cannot carry on a vigorous and effective government? Where is the integrity of the House, if such arguments are used? Are there no men who will act from the impulse of a higher feeling—from a sense of duty, and from what they owe to their country and to their own character? I ask, is not his Majesty alive, and afflicted with a severe malady?—and is not this a reason for giving him additional attendance, rather than taking away what he before had? It has been said, that to give this patronage to the Queen would be so much influence thrown into the hands of Opposition; but it would be a gross and hideous reflection on that exalted and virtuous personage, to suppose that she would employ her power for the purpose of opposing the government of her son. No plan can be suggested which is not clogged with some evil; but upon my honour, and upon my conscience, that which we are called upon to adopt I sincerely believe the most safe, the most constitutional, and the most expedient.”^a

Finally, on the motion that the Great Seal should be put to a commission for opening Parliament, Mr. Solicitor said,—

“This is the only legal mode of proceeding; the other—that of addressing the Prince to take upon him the Regency, (a term unknown to the law,) is wholly illegal. You must proceed by Act of Parliament; and the Great Seal once put to it gives it all the authority of law, so that no inquiry can be instituted as to the mode in which it has been passed. If letters patent are sealed with the Great Seal, without the King’s warrant having been previously granted,—however criminal

may be the conduct of the person who has so acted, they are of full force, and bind the King himself as much as if signed with the King's own hand. We are not now discussing a party question, and I know that my opinion is not influenced by any party bias. If the Prince were to accept the regency on an address, he must represent the King in the House of Lords without authority, and he must give the royal assent to a Regency Bill,—thereby appointing himself Regent,—so that he might be exposed to future difficulties from grave questions arising as to his authority. The commission is a fiction, I admit; but there are many fictions of law, and from some of these fictions arise the best security of the rights of the subject. The present may be called a wholesome fiction, inasmuch as it saves the Constitution from danger, and proves this Constitution to be so admirably constructed that it contains in itself a provision for every emergency.”

Such arguments prevailed in England; although, after the consideration I have repeatedly given to the subject, I must ever think that the Irish Parliament proceeded more constitutionally by considering that the Heir Apparent was entitled to exercise the royal authority during the King's incapacity, as upon a demise of the Crown, and by presenting an address to him, praying him to do so, instead of arrogating to themselves, in Polish fashion, the power of electing the supreme magistrate of the republic, and resorting to the palpable lie of the proceeding being sanctioned by the afflicted Sovereign. While the bill was still pending in the House of Lords, all these speculations were cut short, for this turn, by George's happy recovery.

The disappointed Whigs tried to assuage their grief by ridiculing Sir John Scott, and the others who had fought most stoutly against them, in the following *jeu d'esprit*, which they published in the “*ROLLIAD* :”—

“INCANTATION,

OR RAISING A PHANTOM; IMITATED FROM ‘*MACHETH*,’ AND LATELY PERFORMED BY HIS
MAJESTY'S SERVANTS IN WESTMINSTER.

Thunder.—A Caldron boiling.

Enter three Witches.

First Witch. Thrice the Doctors have been heard,

Second Witch. Thrice the Houses have conferr'd.

Third Witch. Thrice hath Sydney cock'd his chin,
Jenky cries—Begin, begin.

First Witch. Round about the caldron go,
In the fell ingredients throw.

*Still-born fetus, born and bred
In a lawyer's puzzled head,
Hatch'd by 'Metaphysic Scott,'
Boil thou in th' enchanted pot.*

- All.* Double, double toil and trouble;
Fire burn, and caldron bubble.
- Second Witch.* Skull, that holds the small remains
Of old Camden's addle brains;
Liver of the lily's hue,
Which in Richmond's carcass grew;
Tears which, stealing down the cheek
Of the rugged Thurlow, speak
All the poignant grief he feels
For his Sovereign—or the Seals;
For a charm of powerful trouble,
Like a hell-broth, boil and bubble.
- All.* Double, double toil and trouble;
Fire burn, and caldron bubble.
- Third Witch.* Clippings of Corinthian brass
From the visage of Dundas;
Forg'd address, devis'd by Rose,
Halt of Pepper Arden's nose;
Smuggled vote of City thanks,
Promise of insidious Banks;
Add a grain of Itollo's courage,
To inflame the hellish porridge.
- First Witch.* Cool it with Lloyd Kenyon's blood.
Now the charm is firm and good.
- All.* Double, double toil and trouble;
Fire burn, and caldron bubble.

Enter HECATE, Queen of the Witches.

- Hecate.* Oh! well done! I commend your pains,
And every one shall share i' th' gains."

The losing party likewise raised a laugh against their antagonists, by pretending that Lord Belgrave, afterwards Marquess of Westminster, who, on this occasion, declared against them, and quoted, in debate, a passage from the Greek text of Demosthenes, had actually spouted the following line from Homér,—

"Τὸν δ' ἀπαμειβόμενος προσέφη πόδας ὠκὺς Ἀχιλλεύς"—

publishing translations of it (for the benefit of the country gentlemen) by those who had chiefly combated the right of the Prince of Wales during the late crisis.

TRANSLATION BY SIR JOHN SCOTT.

"With metaphysic art his speech he plann'd,
And said—what nobody could understand."

However, we have "ANOTHER BY THE CHANCELLOR," in honour of his *protégé*:—

"To him Achilles, with a furious nod,
Replied 'A very pretty speech, by —!' "k

The ultra-loyal lawyer was abundantly compensated for all these gibes by a message, some little time afterwards, from George III., requesting a call from him at Windsor. Being ushered into the Royal presence, the King most graciously said to him, "I have no other business with you, Sir John Scott, than to thank you for the affectionate fidelity with which you adhered to me when so many had deserted me, in my malady."^m

Sir John Scott led a very quiet life from this time for four years,—till he was promoted to be Attorney-General, A.D. 1789— and the "Reign of Terror" began. 1792. During this long interval, he hardly ever had occasion to open his mouth in the House of Commons:—there were no state prosecutions; and, answering a few Government cases, which could have given him little trouble, he had only to attend to his business in the Court of Chancery. There, those who came next to him were at an immense distance behind him, and his gains must have been enormous. Yet he was at great pains to inculcate the doctrine that a successful barrister is a loser by becoming a law officer of the Crown; and in the "Anecdote Book" he gives this account of a dialogue with George III., in which I must say he seems considerably to have mystified his worthy old master:—

"Soon after I became Solicitor-General, his Majesty George III., at Weymouth, with the kindness which he uniformly manifested to me, said, 'Well, I hope your promotion has been beneficial to you?' I asked his Majesty, if he meant in professional income? He said 'Yes, in that and in other respects.' I told him, *what was strictly true*, that in annual receipt I thought I must lose about two thousand pounds a year. He seemed surprised, and asked how that could be accounted for?

^k Rolliad, 20th édition, p. 531.

^m Lord Eldon used to discredit the report of Thurlow's double-dealing on the late occasion, saying, "I was at the time honoured with his intimacy; scarcely a day passed in which there was not much interesting conversation upon that subject between Lord Thurlow and the King's friends, with which I was acquainted, and I do not believe there was a word of truth in the charge." But the truth of it has been established beyond all possibility of contradiction or doubt. (See Vol. VII. Chap. CLX.) I have heard it in-

sinnated that Sir John Scott himself was privy to these intrigues, and had a hope, under Thurlow's auspices, of being Solicitor-General to the Regent; but I do not believe that there is any foundation for this. He never seems to have been privy to Thurlow's negotiations with the Whigs; and I make no doubt that he acted on the occasion of the Regency with entire singleness of purpose. Gratitude made him eager to disbelieve any thing to Thurlow's disadvantage, as well as to magnify his good qualities.

I stated to him that the attention of his law officers was called to matters of international law, public law, and the laws of revenue, and other matters, with which not having been previously familiar, they were obliged to devote to them a vast deal of time, and to withdraw it from those other common matters of business which were very profitable; and I concluded by stating what was then the habit of the solicitors of the public offices, to give the Solicitor-General only three guineas with his Majesty's (the Government's) cases, which required more time and attention fully to consider, and satisfactorily to answer, than the cases of private individuals, with which their attorneys frequently left fees of ten, fifteen, twenty, or twenty-five guineas. 'Oh!' said the King, 'then for the first time I comprehend what I never could before understand, why it has been always so difficult to get any opinions from my law officers!'

I must be permitted to doubt whether, in the tranquil times of his Solicitor-Generalship, he ever sacrificed a particle of private practice to his public duty; and his professional emoluments—with the higher fees given by ordinary clients to a counsel who enjoys the highest dignity at the Bar—must have abundantly indemnified him for giving up his circuit.—In spite of his heavy losses, instead of being again reduced to buy sixpenn'orth of sprats for supper in Fleet Market, in the course of a few years he bought the fine estate of Eldon, in the county of Durham, from which he afterwards took his title."

Parliament being dissolved in June, 1790, he was again returned for Weobly, and made a speech to the rustics on the blessings enjoyed under the English Constitution,—cautioning them against French principles, of which he early became apprehensive.

The first subject discussed in the new House of Commons was "whether the impeachment against Mr. Hastings had abated by the dissolution?" and, this being considered an

"Since writing the last paragraph I have met with an exact statement of Sir John Scott's gains from his own fee book—abundantly corroborating my conjectures; for it appears that the first year he was in office, instead of losing 2000*l.*, he made more than 1000*l.* beyond the receipts of the preceding year, and that his income went on constantly increasing:—

	£	s.	d.
1786	6,833	7	0
1787	7,600	7	0
1788	8,419	14	0

	£	s.	d.
Solicitor-General. { 1789	9,559	10	0
1790	9,684	15	0
1791	10,218	13	6
1792	9,090	9	0
1793	10,330	1	4
1794	11,599	0	0
Attorney-General. { 1795	11,149	15	4
1796	12,140	15	8
1797	10,861	5	6
1798	10,557	17	0

—*Twiss*, l. 218. Some of the fees then received by the law officers of the Crown have fallen off, but we have been pretty well indemnified by "patents of invention."

open question, although Mr. Pitt and Mr. Dundas held the negative, Mr. Solicitor, under the influence of Lord Thurlow, contended strongly for the affirmative. In answer to the argument, that this would enable the Crown at all times to defeat an impeachment by dissolving Parliament, although it be declared by the Bill of Rights that a pardon under the Great Seal cannot be pleaded in bar to an impeachment,—he went so far as to aver, that “the Crown ought to have the right of dissolving for the express purpose of abating an impeachment, saying that the new House of Commons, if they think fit, may commence proceedings *de novo*.”^o But this most preposterous doctrine, which I am sorry to say several lawyers of eminence supported, was overruled by the good sense of the House, and is now universally allowed to be untenable.—It seems to have been absurdly insinuated in the newspapers, that Sir John Scott and his associates of the long robe had been bribed by Mr. Hastings; for, a few days after the decision, writing to Henry, at Newcastle, to give an account of an attack of the gout, he refers to this calumny, and takes occasion to mention that his opinion was unchanged:—

“Oh! the dignity of the cloth shoe! How hard it is upon me that I, the youngest, and most temperate and abstemious of the three, should, the first of all the brothers, arrive to this dignity! I hope most heartily you may escape; because, between the pain felt and the pain of being laughed at, the complaint is quite intolerable. . . . You would see by the papers how unmercifully we poor lawyers have been treated in the House of Commons.—But the *black squadron*, as we are called, are an obstinate little handful, and in the long run, in a right cause, we shall at least fall gloriously. As to newspaper slander, all which to my knowledge is paid for, I hold that cheap,—and, in spite of it, I shall have, at our next meeting, another tumble down with Charles Fox and William Pitt, who, for once at least, agree in a business in which they are both wrong.”

The only other measure on which he spoke while Solicitor-General was Mr. Fox's Libel Bill. This he was not permitted directly to oppose, for Mr. Pitt and Lord Grenville, to their immortal honour, were determined to carry it against the efforts of Lord Thurlow and the bigoted opinion of all the Judges; but he did what he could to disparage and to weaken it. According to the Parliamentary History, “the Solicitor-General began by professing a most religious regard for the institution of juries, which he considered the greatest

blessing which the British Constitution had secured to the subject. He had his doubts, however, whether the bill then before the House would add to the utility of that invaluable institution." He then stood up for the old doctrine that *libel or no libel?* was a question of law for the Judges, and suggested that "a bill to unsettle a well-established rule, by which the courts had been guided for a century, ought not to pass with precipitation." Finding that the bill must pass, he afterwards added a proviso which was very unnecessary, and which for a good many years proved very injurious, "that on trials for libel the Judges should, according to their discretion, give their opinion and directions to the jury on the matter in issue between the King and the defendant, in like manner as in other criminal cases."

A few days after the Libel Bill received the Royal assent, Lord Thurlow was forced to surrender the Great Seal. On this occasion Sir John Scott acted a very honourable and spirited part, of which we have an extremely interesting narrative from his own lips, delivered to his brother-in-law, Mr. John Surtees:—

"Having received a message from Mr. Pitt, begging that I would call upon him, I called accordingly. Mr. Pitt said,—'Sir John Scott, I have a circumstance to mention to you, which, on account of your personal and political connection with Lord Thurlow, I wish that you should *first* hear from myself. Lord Thurlow and I have quarrelled, and I have signified to him his Majesty's commands that he should resign the Great Seal.' I replied, 'I am not at all surprised at the event which has taken place; I have long looked forward with great pain to the probability of such an event, and my resolution is formed. I owe too great obligations to Lord Thurlow to reconcile it to myself to act in political hostility to him, and I have too long and too conscientiously acted in political connection with you to join in any party against you. Nothing is left for me but to resign my office as Solicitor-General, and to make my bow to the House of Commons.' Mr. Pitt reasoned with me, and implored me not to persist in that resolution—in vain,—but at length prevailed upon me to consult Lord Thurlow before I proceeded any farther. After I had stated to Lord Thurlow what had passed between Mr. Pitt and myself, he said, 'Scott, if there be any thing which could make me regret what has taken place (and I do not repent it), it would be that you should do so foolish a thing. I did not think that the King would have parted with me so easily. As to that other man, he has done to me just what I should have done to him if I could. It is very possible that Mr. Pitt, from party and political motives, at this

moment may overlook your pretensions; but sooner or later you *must* hold the Great Seal. I know no man but yourself qualified for its duties.' I yielded; and, preserving the friendship of Lord Thurlow, I continued to act with undiminished cordiality with Mr. Pitt."

His last prominent act as Solicitor-General was, very properly, to appeal to the laws of his country against a gentleman who sent him a challenge for words spoken by him as counsel, strictly in the discharge of his professional duty. There was no reason to doubt his personal courage, but a display of it on such an occasion would have been a wanton exposure of his own valuable life, and would have established a precedent highly detrimental to the interests of suitors in courts of justice. His conduct was entirely approved of by the Bar and by the public. The challenger, who thus sought to repair his reputation from the damage which the evidence in the cause had cast upon it, was sentenced by the Court of King's Bench to fine and imprisonment.—But scenes were at hand in which our hero appeared with little advantage.

CHAPTER CXCVI.

CONTINUATION OF THE LIFE OF LORD CHANCELLOR ELDON TILL HE WAS
MADE CHIEF JUSTICE OF THE COMMON PLEAS.

I now with unaffected pain approach Sir John Scott as Attorney-General, for I shall be obliged to censure him severely in this capacity. I doubt not that he acted A.D. 1793. all the while in strict conformity to his own views of justice and expediency, but I consider that in several instances these were most erroneous. It must be admitted that the times were perilous. Although the vast bulk of the inhabitants of this country were steadily attached to the monarchical government under which they and their ancestors had so signally prospered—in the movement produced by the French Revolution there were some ill-designing men who wished to introduce public confusion, in the hope that they might suddenly attain the high station in society for which they were unwilling to strive by patient industry; and there were some

well-meaning enthusiasts, who thought that the happiness of the community might be promoted by a considerable change in our institutions. Both classes ought to have been repressed—and might easily have been repressed—by a firm and temperate administration of the existing law; but the existing law was strained and perverted, and new penal enactments were introduced by which the most important rights of the subject were suspended, and the Constitution was seriously endangered. Of this system, by which discontent was aggravated, and odium was brought upon courts of justice and upon the legislature, Sir John Scott was a most strenuous instigator and supporter.

On the 13th of February, 1793, he became public prosecutor, succeeding Sir Archibald Macdonald, promoted to the office of Lord Chief Baron, and on the 27th of May following he brought to trial John Frost for some foolish words spoken after dinner in a coffee-house. I have already given an account of this most *un-English* prosecution, and expressed my opinion pretty freely upon it.* In fairness I now give the Attorney-General's justification of himself in his reply—premising that Erskine had tried to apologise for him by suggesting that he persisted in the prosecution, not because it had his own approbation, but because it had devolved upon him from his predecessor:—

"I protest against that doctrine, that the Attorney-General of England is bound to prosecute because some other set of men choose to recommend it to him to prosecute, he disapproving of that prosecution. He has it in his power to choose whether he will or not, and he will act according to his sense of duty. Do not understand me to be using a language so impertinent as to say, that the opinions of sober-minded persons in any station in life, as to the necessity that calls for a prosecution, ought not deeply to affect his judgment. But I say it is his duty to regulate his judgment by a conscientious pursuance of that which is recommended to him to do; and if any thing is recommended to him which is thought by other persons to be for the good of the country, but which he thinks is not for the good of the country, no man ought to be in the office who would hesitate to say, 'My conscience must direct me; your judgment shall not direct me.' And I know I can do this; I can retire into a situation in which I shall enjoy what, under the blessings of that constitution thus reviled, is perhaps the best proof of its being a valuable constitution—I mean the fair fruits of a humble industry, anxiously and conscientiously exercised in the fair and honourable pursuits of life. I state, therefore, to my learned friend, that I cannot accept that compliment which he paid me, when he supposed it was not my

* *Vide ante*, Vol.-VIII. p. 146.

act to bring this prosecution before you, because it was not what I myself could approve. Certainly this prosecution was not instituted by me; but it was instituted by a person whose conduct, in the humane exercise of his duty, is well known; and I speak in the presence of many who have been long and often witnesses to it; and when it devolved upon me to examine the merits of this prosecution, it was my bounden duty to examine, and it was my bounden duty to see if this was a breach of the sweet confidences of private life. If this was a story brought from behind this gentleman's chair by his servants, I can hardly figure to myself the case in which the public necessity and expediency of a prosecution should be so strong as to break in upon the relations of private life. But is this prosecution to be so represented? When a man goes into a coffee-room, who is, from his profession, certainly not ignorant of the respect which the laws of his country require from him as much as from any other man, and when he in that public coffee-house (provided it was an advised speaking) uses a language which I admit it is clear, upon the evidence given you to-day, provoked the indignation (if you please so to call it) of all who heard it—when persons, one, two, three, or more, come to ask him what he meant by it—when he gives them the explanation, and when he makes the offensive words still more offensive by the explanation that he repeatedly gives,—will any man tell me, that if he goes into a public coffee-house, whether he comes into it from up-stairs, or whether he goes into it from the street, that he is entitled to the protection that belongs to the confidence of private life, or that it is a breach of the duties that result out of the confidence of private life to punish him?"

I will only draw attention to the admission, that the prosecution could only be defended provided it was "an *advised speaking*," and remark that, instead of being "*an advised speaking*," the words were elicited by rude provocation from a man who had been indulging in wine. Yet, being in the rank of a gentleman, he was not only sentenced to six months' imprisonment in Newgate, and to be expelled from his profession of an attorney, but to stand one hour in the pillory at Charing Cross!!!

This was a fit prelude to the famous State Trials which took place in the following year. The blame of these rests chiefly with Mr. Pitt, and I am sorry to say that it A.D. 1794. fixes a deep stain upon his memory. If he had sincerely changed his opinion on parliamentary reform, it was not right in him to try to bring his former associates to an ignominious death for zealously treading in his footsteps. Lord Loughborough, then Chancellor, was next to blame; for he too—though for a short space—had been a reformer, and he had

agitated at public meetings, holding language almost as intemperate as the members of the "Corresponding Society." Sir John Scott, from his earliest years, had been the steady and consistent enemy of all innovation, and had looked with alarm on every popular movement. He might, therefore, better be excused for believing that those who advocated parliamentary reform were very dangerous characters, and were resolved to subvert the established government of the country. It must likewise be recollected, that in these proceedings he never displayed anything like rancour or bitterness against any individual, and that his language and his manner were uniformly mild and forbearing. Yet, in spite of the self-complacency with which he spoke and wrote upon this subject till the close of his life, I am afraid that impartial history must condemn his conduct; for, as a great lawyer, he ought to have known that seditious harangues and publications were only to be treated as *misdemeanors*, and that to say men "compassed and imagined the death of our Lord the King," and ought to be executed as traitors, because they were liable to an *ex-officio* information on which they might be fined and imprisoned, was to confound offences of a very different character, and to do away with the security which the Statute of Treasons, so long ago as the reign of Edward III., had conferred upon the citizens of this free land.

In the manner in which the prosecutions were conducted, I can blame nothing, except that an attempt was made to pre-judge the case by parliamentary committees, and by passing an act of the legislature, which recited the existence of the traitorous conspiracy—and that when the prisoners were apprehended and examined before the Privy Council, the judges who were to sit upon their trials were called in to listen to the evidence, and to join in the commitment. Such a course would not be endured at the present day, and no Government composed of any party in the state would venture to propose it.

To avoid repetition, I must now abstain from entering into the details of the trials of Hardy, Horne Tooke, and Thelwall—which will be found in the life of Erskine. I would willingly give the whole of the Attorney-General's opening speech of nine hours, but I am afraid that my work may be already considered too *lengthy* and too *weighty*, and I must confine myself to the following sketch of it, which has been adopted by Mr. Twiss :—

"The Attorney-General, in opening the various circumstances to the jury, as evidence to prove the treason of compassing the King's death, stated that the proofs, which it would be his duty to adduce, would sufficiently establish the fact of a conspiracy to depose the King, which in point of law is an overt act of compassing his death; and he argued that it could not be less an overt act of compassing the King's death for being included in the still wider design of subverting the entire monarchy and substituting a commonwealth, which was the real object aimed at under colour of 'a full and fair representation of the people.' If a conspiracy to depose the King is an overt act of compassing his death where the conspirators intend to supersede him by another king, it is equally so where they intend to supersede him by a republic. The convention contemplated by these conspirators was intended to claim all civil and political authority; which authority it was to exercise, by altering the government independently of the legislature and of the statutes by which the King is sworn to govern. The conspiracy to assemble such a convention was a conspiracy to depose the King from his sovereign power; and the insufficiency of the force by which the object might be attempted could make no difference in the character of the object itself, which must be equally treasonable whether successful or unsuccessful. Nor would it make any difference whether the first assembly to be convoked was to be itself a convention assuming all civil and political authority, or was only to devise the means of forming such a convention. Neither would the conspiracy be the less a treasonable one for purposing to continue the name and office of King in the person of George the Third, if that continuance was intended to be coupled with a proviso that he should govern with a new kind of legislature, to be constituted by the convention. A king who should consent so to govern would no longer be the lawful king; he would have been deposed from his character of king as established by law. But he *could not* so consent; for so to govern would be to violate his coronation oath: therefore he must refuse, must resist, and, in consequence of resisting, his life must be in danger. In either case he would have been deposed: for the meeting of a convention, assuming all authority, must in itself have been, at least *pro tempore*, a deposition of every other power. But in this case the evidence went beyond that kind of incidental deposition of the King: it proved that his actual deposition was the direct and express object of appointing a committee to constitute this convention. Beside the overt act of conspiring to depose the King by means of a convention, there were other overt acts of conspiracy to depose the King by other means: by endeavouring to introduce into this country, through the agency of affiliated societies, the same principles which had been set at work in France, and to follow them out to the same end. The doctrine put forward by the societies was that of 'equal active citizenship,' on which they sought to found a representative government. That was the principle upon which was formed the French constitution of 1791—a constitution preserving the office of king, and setting up a sort of royal democracy. But in August 1792 that constitution was destroyed; and

the transactions of the English societies, in and after the October succeeding that date, proved that, if not earlier, yet at least from October 1792, they meant to destroy the kingly office in England. They sought to advance this object by stimulating their members to arm: and various divisions did arm, and clandestinely practise the manual exercise." "

Lord Eldon used to relate very amusing anecdotes of this trial. "Every evening, upon my leaving the Court, a signal was given that I was coming out, for a general hissing and hooting of the Attorney-General. This went through the street in which the Court sat from one end of it to the other, and was continued all the way down to Ludgate Hill and by Fleet Market."—"One evening, at the rising of the Court, I was preparing to retire, when Mr. Garrow said, 'Do not, Mr. Attorney, pass that tall man at the end of the table.' 'And why not?' said Mr. Law, who stood next. 'He has been here,' answered Mr. Garrow, 'during the whole trial, with his eyes constantly fixed on the Attorney-General.' 'I will pass him,' said Mr. Law. 'And so will I,' was my rejoinder. As we passed, the man drew back. When I entered my carriage, the mob rushed forward, crying, 'That's he, drag him out!' Mr. Erskine, from whose carriage the mob had taken off the horses to draw him home in triumph, stopped the people, saying, 'I will not go without the Attorney-General.' I instantly addressed them: 'So you imagine, that if you kill me, you will be without an Attorney-General? Before ten o'clock to-morrow there will be a new Attorney-General, by no means so favourably disposed to you as I am.' I heard a friend in the crowd exclaim, 'Let him alone! let him alone!' They separated, and I proceeded. When I reached my house in Gower Street, I saw, close to my door, the tall man who stood near me in Court. I had no alternative; I instantly went up to him: 'What do you want?' I said. 'Do not be alarmed,' he answered; 'I have attended in Court during the whole of the trial—I know my own strength, and am resolved to stand by you. You once did an act of great kindness to my father. Thank God, you are safe at home. May He bless and protect you!' He instantly disappeared."

"Erskine was, of course, extremely popular. He was received with universal plaudits, and there was nothing to disturb his enjoyment of this contrast, or to soften my mortification, until one evening the multitude which had thought

" See 24 St. Tr. 941. Of this last allegation no evidence could be produced.

proper to take his horses from his carriage that they might draw him home, conceived among them such a fancy for a patriot's horses as not to return them, but to keep them for their own use and benefit."*

"The jury retired to deliberate. Upon their return, their names were called over. I never shall forget that awful moment. 'Gentlemen of the jury,' said the Clerk of Arraignment, 'are you agreed in your verdict? What say you? Is Thomas Hardy guilty of the high treason whereof he stands indicted, or not guilty?' 'Not guilty,' in an audible voice, was the answer. It was received in Court without noise—all was still—but the shout of the people was heard down the whole street. The door of the jury box was opened for the jurymen to retire; the crowd separated from them as the *saviours of their country*."

Mr. W. E. Surtees, in his "Sketch of the Lives of Lords Stowell and Eldon," says: "Scott, not long afterwards, said 'the evidence was, in his opinion, so nicely balanced, that had he himself been on the jury, he did not know what verdict he should have given.'"* Surely the other prisoners ought to have had "the benefit of this doubt;"—and I have always been wholly at a loss to conjecture his motive for proceeding to the trial of Horne Tooke.

The expedient was tried of making Sir John Mitford, the Solicitor-General, open the case, - the Attorney-General reserving the reply to himself. Speaking of the design imputed to the conspirators to compel the King to govern against his coronation oath, Mr. Attorney rather incautiously said, "*He ought to lose his life*, and I trust would be willing to lose his life, rather than to govern contrary to that coronation oath." Mr. Tooke: "What! is the Attorney-General talking treason? I should be unhappy to mistake you: did you say the King ought to lose his life?" Attorney-General: "It is really difficult to decide for one's self, whether this interruption is or is not proper." Mr. Tooke: "I ask pardon of the learned gentleman; and I promise I will not interrupt him again during the whole of his reply. I only wished to know whether, in prosecuting me for high treason, the Attorney-General intentionally said something far worse than anything he has proved against me." Attorney-General: "I am very much obliged to the gentleman. I say this: that the King

* This imputation upon his admirers Erskine himself denied,—saying that it was "a

weak invention of the enemy."

† Twiss, i. 186—87.

‡ Page 87.

of Great Britain is bound by his coronation oath to govern according to the laws established in Parliament, and the customs of the realm; that he is bound by that coronation oath to resist every power that seeks to compel him to govern otherwise than according to those laws; that it must, therefore, be understood that the King of Great Britain would resist such a power as that, because he would be acting only in the exercise of his sworn duty; and in resisting such a power as that he must inevitably lose his life."

Before concluding, Mr. Attorney (as might have been expected) pathetically appealed to his *conscience*:—"I here declare," said he, "that not one step would I take in this prosecution repugnant to the dictates of my own judgment, exercised according to what my conscience prescribes to that judgment, not for all which this world has to give me. Gentlemen, why should I? You will allow me to say, after all that has passed, that I have no desire with respect to myself in this cause, but that my name should go down to posterity with credit. I cannot but remember *this* is an interest most dear to me. Upon no other account my name will be transmitted to posterity:—with these proceedings it must be transmitted. That name, gentlemen, cannot go down to that posterity without its being understood by posterity what have been my actions in this case. And when I am laid in my grave, after the interval of life that yet remains for me, my children, I hope and trust, will be able to say of their father, that he endeavoured to leave them an inheritance, by attempting to give them an example of public probity, dearer to them than any acquisition or any honour that this country could have given the living father to transmit to them."—The Solicitor-General, who was not generally of the *melting mood*, to the surprise of the beholders sobbed violently in sympathy, and some one exclaiming "Just look at Mitford! what on earth is *he* crying for?" Horne Tooke sarcastically answered,—"At the thought of the *little inheritance* that poor Scott is likely to leave to his children."

When the verdict of NOT GUILTY had been pronounced, it is said that the reverend and witty philologist—instead of expressing any exultation—with waggish solemnity declared that "if he should again have the misfortune to be indicted for high treason, he would immediately plead *guilty*, as he considered hanging and beheading preferable to the long speeches of Sir John Scott." However, he acknowledged that the prosecution

had been very fairly conducted, and, meeting the Attorney-General a few weeks afterwards in Westminster Hall, he walked up to him and said,—“Let me avail myself of this opportunity to express my sense of your humane and considerate conduct during the late trials.”

As I have ventured to condemn Lord Eldon rather sharply for instituting these prosecutions, it is fit that he should be fully heard in his defence. Thus he wrote in his “Anecdote Book,” for the information of his grandson and of posterity :—

“The trials, in 1794, of Hardy, Tooke, &c., for high treason, at the Old Bailey, were the most important proceedings in which I was ever professionally engaged. As I was blamed by some, perhaps by many, for indicting them for high treason, instead of indicting for misdemeanor and sedition only, I record here the reasons which led me to take the course I adopted, and to produce that great mass of evidence before the jury, which many thought perplexed them so much, that they were unable to draw the true inferences. When the societies of which these individuals were members were broken up by order of Government, and many of the members (among others, the individuals indicted and tried) were, together with all their papers, and particularly those respecting the proceedings of the different affiliated societies, seized, by warrants, on suspicion of high treason, *such of the Judges as were Privy Counsellors, and were present at the many and long examinations of the parties apprehended, at the reading of the papers seized, and at the examination of the witnesses, being called upon for their opinion, stated that in their judgment the parties were guilty of high treason.* The warrants of commitment for trial treated them as parties committed on account of high treason. The cases, as treasonable cases, were the subject of communications to, and debates in, Parliament. As Attorney-General and public prosecutor, I did not think myself at liberty in the indictments to let down the character of the offence. The mass of evidence, in my judgment, was such as ought to go to the jury for their opinion, whether they were guilty or not guilty of TREASON. Unless the whole evidence was laid before the jury, it would have been impossible that the country could ever have been made fully acquainted with the danger to which it was exposed, if these persons, and the societies to which they belonged, had actually met in that national convention, which the papers seized proved that they were about to hold, and which was to have superseded Parliament itself, and *it appeared to me to be more essential to securing the public safety that the whole of their transactions should be published, than that any of these individuals should be convicted.* They, too, who were lawyers and judges, having stated their opinion that these were cases of high treason, I could not but be aware what blame would have been thrown upon the law officers of the Crown if they had been indicted for misdemeanor, and the evidence had proved a case of high

treason, which, proved, would have entitled them to an acquittal for the misdemeanor; and then the country would not have tolerated, and ought not to have tolerated, that, after such an acquittal, their lives should have been put in jeopardy by another indictment for high treason. It was true that a charge for misdemeanor might have been so conducted as not to risk the danger of acquittal on the ground of guilt of a higher nature, viz. by giving no more of the evidence than just enough to sustain the charge of misdemeanor; but then the great object of satisfying the kingdom as to the real nature of the case could not possibly have been attained. The Judge who summed up the evidence, after hearing both sides, had more doubt whether the case of high treason was made out than he had when he attended the Privy Council. Erskine and Gibbs, the prisoner's counsel, ably took advantage, particularly* the latter, of the prejudices against what is called constructive treason: the jury were fatigued and puzzled; and, in the state in which they were, it cannot be surprising that they acquitted the accused. When a little time had enabled the public to judge coolly about the proceeding, the public mind seemed satisfied with the result."

But I must pronounce this apology to be wholly insufficient. The preliminary opinion obtained from the
A.D. 1792—
1795. Judges before the Privy Council ought not to have been referred to without a blush, and the voice of the two Houses of Parliament was only the echo of the Attorney-General's own. The necessity for communicating information to the country is a poor reason for exposing the lives of men to peril, and it might have been as well gained by a prosecution for a misdemeanor. The risk of an acquittal in that case, on the ground that the offence might have been pronounced to amount to high treason, every lawyer must know to be a mere pretext. In several Chartist cases which while Attorney-General I prosecuted as *misdemeanors*, the evidence came far nearer to high treason, and I obtained convictions without such an objection being made or thought of in any quarter.*

I must now attend to the new penal enactments which had passed in the mean time. For these the Attorney-General is less responsible, and, though they were unconstitutional, they do not deserve so much censure as an attempt judicially to pervert the criminal law. First came *The Traitorous Correspondence Bill*, brought in by Mr. Attorney, which, departing from the statute of Edward III., our second MAGNA CHARTA, made an agreement to furnish naval or military stores to

France,—the investing of English capital in French funds or land, and other such acts,—high treason;^b—next, he brought in the *Habeas Corpus Suspension Act*,^c—and then the *Seditious Practices Act*, by which the holding of public meetings, unless with the consent of certain functionaries, was forbidden, and serious impediments were opposed to the right of petitioning.^d The Attorney-General carried through these measures with great vigour, and his opinion on all legal points was listened to with much respect by the House of Commons. He particularly distinguished himself in successfully opposing the bill to disfranchise the borough of Stockbridge,^e—in defending the conduct of Government respecting the employment of Hessian troops,^f—in showing the legality of voluntary subscriptions to the public revenue,^g—and in palliating the savage proceedings in political cases of the Court of Justiciary in Scotland.^h Jan. 1795.

When Parliament met after the State Trials, they were made the subject of strong animadversion; and the Attorney-General, in moving for a continuance of the suspension of the Habeas Corpus Act, attempted to defend the manner in which they had been instituted and conducted. He thus argued—very disingenuously, for the result had not depended upon any technical rule of law, but upon the clear merits of the case:—

“A legal acquittal is not necessarily a moral one. I will put a case upon this subject. Suppose, upon a charge of treason, any gentleman of unblemished honour were to give evidence of an overt act, to the satisfaction of every man who heard him, still, if there was no other evidence, the prisoner must be acquitted, because the law says there must be two witnesses. Here would be a case of a verdict of not guilty, in which every person must be satisfied of the real guilt of the person acquitted. There are cases even in which the confession of guilt by the party accused could not legally be received against him in evidence. In such cases, though a jury might be bound by law to acquit the person, could any man think that the verdict of not guilty was a proof of moral innocence?” We are told that “he then inveighed against the mischievous writings of some authors very popular with the revolutionary party, and censured the language of members of the Opposition, who applied the light and inadequate epithets of ‘idle,’ and ‘foolish,’ to the conduct of those who had adopted revolutionary doctrines, and had expressed a desire for a national convention in England. He asked whe-

^b 30 Parl. Hist. 581.^c 31 Parl. Hist. 520.^d Ib. 529.^e 30 Parl. Hist. 955.^f Ib. 1381. 31 Ib. 21.^g 31 Ib. 107.^h Ib. 80.

ther, while such opinions were in motion, was it not absolutely necessary that Government should be armed with extraordinary powers to resist them?"¹

The coercive system, however, was rapidly falling into discredit,—when it was revived with double fury by taking advantage of insults offered to the King on his way to the House of Lords to open the next session of Parliament. There his Majesty himself—with the courage he ever displayed at the appearance of danger—treated with indifference, but they were much exaggerated by the courtiers about him, who, converting the scandalous outrage of throwing pebbles at the King's carriage into a traitorous attempt upon his life, talked of "the *shot* striking the window of the state coach," and reported that "one of the windows was perforated by a bullet from an air-gun." An address was very properly presented to his Majesty by both Houses of Parliament, expressing their indignation at the treatment which he had experienced. But the enthusiastic loyalty which was excited on the occasion Ministers culpably made the instrument of further injuring the Constitution.

The Attorney-General immediately prepared the "Treasonable Attempts Bill," which he called "a legislative exposition of the statute of Edward III.," greatly extending the provisions of that famous law, which for many centuries had sufficiently guarded the safety of the throne and the liberties of the people. Instead of the simple enactments against "compassing the King's death," or actually "levying war against him," the penalties of high treason were applied to the vague charges of *imagining* to do any bodily harm tending to the wounding, imprisonment, or restraint of the person of the King, or to depose him from the style, honour, or kingly name of the imperial Crown of this realm, or imagining to levy war against him, or imagining to put any form or constraint upon or to *intimidate or overcome both or either Houses of Parliament*—such imaginings being expressed by *publishing any writing* or by any overt act or deed.*

¹ 31 Parl. Hist. 1153.

* 36 Geo. 3, c. 7, made perpetual by 57 Geo. 3, c. 6. The object seems to have been to include within these words such cases as those of Lord George Gordon, and Hardy and Horne Tooke, so as, by this "legislative exposition," to establish the doctrine of *constructive treason*, which juries and the whole

nation had repudiated. Upon a strict construction* of the act I doubt very much whether the proceedings of Mr. Cobden, praised so highly by Sir Robert Peel, might not be brought within it, in a speech of nine hours from an ingenious counsel. It still remains on the statute book—but may be considered a dead letter. When I, as Attorney-

Mr. Attorney seems to have been haunted by an absolute horror of libels, which, where they do not incite to the commission of crime, we have found out to be very harmless, and we suffer to be forgotten with impunity. In defending his Bill he said, "he considered it as not extending the law of treason beyond the true intent of the statute of Edward III., but only as defining and explaining that statute, which had itself provided that in all cases of doubt upon its exposition, recourse should be had to Parliament for a more definite exposition. Persuaded as he was, by the unprecedented assemblages and libels of the time, that a design existed to subvert the Government and Constitution, he would not incur any merited change of supineness. He had done his utmost to repress the evil by the already existing laws, *for in the last two years there had been more prosecutions for libels than in any twenty years before.* But the offence had now swelled to a magnitude with which the existing laws were no longer adequate to cope; and unless some further aid were given by Parliament for its suppression, the House would too late regret that they had not encountered it by a timely remedy."^m In subsequent discussions on this Bill, and another, which was fortunately only of a temporary character, forbidding the meeting of more than fifty persons for the purpose of petitioning or deliberating upon grievances, and suppressing unlicensed places for political discussions or discourses, he said, "there were people now who lived by libels; it was become a trade. It was not unusual to see the wares of useful trades exposed to sale on one side of a shop, and libels on the other. Such were their numbers, that it was his conscientious opinion they could not be effectually checked if some law were not made to stop their progress. However irksome it was for a lover of the Constitution to feel his liberty abridged, every wise man would admit, that when everything dear to him was in danger from the daring herd of rash innovators and the licentious doctrines of the dealers in sedition, valuable as British freedom was, a part should be sacrificed for a time for the safety of the whole."ⁿ—He again boasted, that, "*in the last two years there were more prosecutions for libels than in any twenty years before.*" He said that "if every libel were punished as

General, prosecuted Frost and his associates for high treason, at Monmouth, in the year 1840, I proceeded entirely on the old statute of Edward III., and I obtained a conviction against them without difficulty. I will ven-

ture to say that every offender who ought to be prosecuted for high treason may easily be brought within this statute.

^m 31 Parl. Hist. 1153.

ⁿ 32 Parl. Hist. 370.

a mere misdemeanor, there were many men whose lives, if protracted to the greatest extent of human longevity, would not see the end of their punishments. The object of the societies was to degrade and destroy every principle of virtue, and all natural religion, and all political order. He could with confidence declare, that there had never been a case in which he had been called upon to prosecute, that he did not state to the jury, that he would rather have the gown stripped from his back, than ask them to give a verdict contrary to their consciences."

The bills were carried through Parliament by large majorities ; but, while the Administration gained some temporary strength from the alarm they propagated in the country, their tendency was to inflame public discontent, and to lessen the effect of the contrast which was then exhibited to the world between the blessings of regular government in England and the horrors of anarchy in France.

The Whig leaders, although with a very slender following, made a noble stand against these encroachments on public liberty. But they incur almost equal blame for a prosecution which they originated, and which exemplifies a remark I have often made to myself in perusing both ancient and modern history, that where two parties in a state have been long struggling for superiority, moderation, wisdom, and justice are never to be found exclusively with either of them, and the excesses of one side are sure to be pretty nearly matched by those of the other. Mr. Fox, instigated by Mr. Sheridan, Mr. Grey, and Mr. Erskine, and actuated, I am afraid, by the recollection that Mr. John Reeves was an active partisan of the Government, and had made himself conspicuous by placing himself at the head of an association professing to put down republicans and levellers, made the motion against him which I have already had occasion to reprobate,^p—that, on account of some antiquarian researches respecting the original constitution of Parliament, he was guilty of a breach of the privileges of the House of Commons, and ought to be prosecuted by the Attorney-General. Sir John Scott very temperately observed, that "it had been found in former instances of Complaints sent from the House, a jury, after a long investigation of the facts charged, differed in opinion, and acquitted the party prosecuted. Indeed if the construction which gentlemen had put upon this passage was that

which the author meant to convey, then most unquestionably it was a gross libel; but upon that point he would not give his opinion. He always considered it an unfortunate circumstance when a jury felt themselves bound to pronounce a different opinion from that of the House of Commons. However, honourable members were to divide upon the question, and if he was ordered to prosecute he would discharge his duty faithfully."^a

The prosecution being ordered, Mr. Attorney filed a criminal information against Mr. Reeves, and, having brought him to trial, very fairly stated to the jury, May 20,
1796.

"If you are of opinion that this is an ill-advised execution of a purpose which was really not criminal, it is not consonant to the lenient, genuine spirit of the law under which we live, that in such a case you should press a man with the consequences of guilt. But if, on the other hand, you are satisfied, on attending to the whole of this book, that the purpose of the author was criminal, as it is charged in this information—that he has attempted to shake the foundation of that security which is afforded to a British subject by our Constitution under a British King and a British Parliament, you are called upon to pronounce the verdict of guilty, which is due to God and to your country."

The defeated House of Commons did not venture to make any complaint against their counsel, who, though in his heart not sorry to fail, was allowed to have done sufficient justice to their case.

The only other occasion of Sir John Scott taking part in the proceedings of the House of Commons, to which I shall feel it necessary to advert, was his introduction of a "Bill to regulate the publication of Newspapers." June, 1798. Hitherto, serious difficulty had often been found in proceeding either civilly or criminally for libels contained in newspapers, from the concealment of the names of the printer and proprietor; but it was now required that the proprietor and printer of every newspaper should make an affidavit, to be filed at the Stamp Office, stating the proprietorship and place of publication; that every copy of a newspaper should set forth the names of the printer and proprietors, with the place of publication; and that a copy of such newspaper, bearing the title and purporting to be printed at the place specified in the affidavit, should be *prima facie* evidence against those by whom the

affidavit was made. The bill was strongly opposed, but was not, in my opinion, any encroachment upon free discussion, and, on the contrary, had a tendency to raise the character of the newspaper press, by discouraging the scurrilous and licentious journals which subsisted by attacks on private character. The bill passed, and has, I think, in practice been found very beneficial.*

We must again attend our Attorney-General into the Criminal Courts, where it was his fate frequently to be defeated, even when he had law and justice on his side. I believe that this arose from the alarming multiplicity of his prosecutions, and the suspicion which juries entertained that he

Jan. 1796. was unfriendly to freedom. He now very properly

brought to trial for high treason Stone, who had corresponded with the enemy and had invited an invasion; but Erskine, by insinuating that this was like the case of Hardy and Horne Tooke, and that it was founded on the late odious Acts of Parliament, obtained an acquittal.[†] The next state trial was that of Crossfield and others for high treason in conspiring to discharge a poisoned arrow at the King. There could be no doubt here about the law, and the fact was sworn to by several witnesses; but the jury did not believe them, and found a verdict of Not Guilty.[‡]

Sir John Scott's last prosecution for high treason was May, 1799. against Arthur O'Connor, the Rev. James O'Coigley, John Binns, and others, for corresponding with the Executive Directory of France, and inviting foreign invasion. Mr. Gurney, afterwards a Baron of the Exchequer, then in the "sedition line," being counsel for one of the prisoners, made it a powerful topic with the jury that the Attorney-General had always failed in his prosecutions for high treason :—

"The Attorney-General in his opening told you, with a seriousness and solemnity well becoming the occasion, that he should make out such a case against the prisoners at the bar that he thought it was not within the compass of possibility for them to give such an answer to it as to entitle them to a verdict of acquittal. Gentlemen, that language may be somewhat new to you, but it is not new to me. I have heard the same language from the same learned gentleman, delivered in the same solemn manner, more than once, or twice, or thrice, or four times; but

* 38 George 3, c. 78. 33 Parl. Hist. 1415, 1482.

† 25 St. Tr. 1155.

‡ 26 St. Tr. 1—225.

I never yet knew that jury, in a case of high treason, who at the conclusion of the trial coincided with him in judgment."

On this occasion one prisoner, O'Coigley, was convicted,* but all the others, though undoubtedly implicated in the traitorous conspiracy, were acquitted.[†]

Mr. Attorney was more successful with his *misdemeanors*, but I cannot say that he thereby increased his credit. He obtained a conviction, followed up with fine and imprisonment, of the proprietor and printer of the *Courier* newspaper, for a paragraph which appeared in that journal, stating that "the Emperor of Russia (Paul) was rendering himself obnoxious to his subjects by various acts of tyranny, and ridiculous in the eyes of Europe by his inconsistency." Then came the scandalous verdict against Mr. Cuthell, the respectable bookseller, because, without his authority or knowledge, a few copies of Gilbert Wakefield's pamphlet had been sold in his shop. I must do Mr. Attorney the justice to say, that he seemed heartily ashamed of this case, for he hardly said more to the jury than laying down for law, that "every man who publishes a book is answerable for the contents, whether he knows them or not; and when a man publishes a book, he takes his chance; if it be an innocent book, it is well—if a libel, the publisher is answerable for its contents:" but he did not venture to grapple with the question, whether, in fact or in law, the defendant was the publisher?[‡]

Mr. Attorney's last exploit in this line was prosecuting the Rev. Gilbert Wakefield himself for the pamphlet, which contained, with much sound learning, much that was absurd and censurable, but which was not calculated to do any serious mischief.[§] The defendant having addressed the jury as his own counsel, with ingenuity and erudition, but little discretion,—Sir John Scott observed, "From what the reverend gentleman has said, he seems to conceive that there should be one law for him, and another for all the rest of his countrymen. I should think that I degraded myself, and insulted you, by offering to make any reply to what has fallen from

* It was soon after this conviction that Sir James Mackintosh, then groundlessly supposed to have gone over to the Tories, having observed to Dr. Parr, "There never was, nor can there be, a worse man than O'Coigley," the Doctor retorted—"You are wrong, Jammy, you are wrong: he was an Irishman;

he might have been a Scotchman: he was a priest, he might have been a lawyer: he was a traitor; he might have been an apostate."

† 26 St. Tr. 1191. 27 St. Tr. 1.

‡ Rex v. Vent, 27 St. Tr. 617. *Ante*, Vol. VIII., p. 343.

§ 1b.

b 27 St. Tr. 641.

him." The defendant was sent to prosecute his studies two years in Dorchester gaol.^c

I by no means impute these proceedings to any harshness in the character of Sir John Scott, which, on the contrary, was mild and benevolent,—but to the rancorous policy then adopted by the party to which he belonged. It is agreeable to think that there is no danger of again seeing a "Reign of Terror" in this country. Of late years such prosecutions would as little have been instituted by Sir Frederick Pollock or Sir Frederick Thesiger as by Sir John Campbell or Sir Thomas Wilde.^d

The last appearance of Sir John Scott in a criminal court was in prosecuting the Earl of Thanet and Mr. Cutlar Fergusson for a riot in attempting to rescue Arthur O'Connor after his acquittal at Maidstone. If all that the witnesses for the Crown swore was true, there had been a grave insult offered to the administration of justice in the presence of the King's Judges, and little blame was incurred by bringing the case before a jury; but the defendants showed that they had tried to quell the disturbance instead of exciting it; and they would probably have been acquitted, had it not been for the foolish declaration of Mr. Sheridan, when examined on their behalf, that he "*believed they secretly wished Mr. O'Connor to escape, although he observed nothing in their conduct to show that they felt such a wish.*"

In reading this and other trials in which Sir John Scott was concerned, I have in vain desired to select passages which might convey a favourable opinion of his style as an advocate. He confined himself to a detail of facts, mixed up with protestations of his own honesty and good intentions, quite careless as to the structure of his sentences, or the order of his discourse. I can offer nothing better than the following very sensible statement of his duty as public prosecutor:—"The

^c 27 St. Tr. 679. Upon this trial Lord Kenyon, laying aside "*latet angui, in herba*," introduced a new quotation—saying, in allusion to the defendant's great classical acquirements,—

"—*ingenuas didicisse fideliter artes
Emollit mores*—

is an expression which has often been used; but the experience of this case has shown that it is not always correct."

^d The ideas of that age are strikingly

illustrated by a letter written in 1801 by Sir John Mitford, the new Attorney-General, who was likewise a very mild, good-natured man—"I flatter myself that the *very temperate exercise* of the office of Attorney-General whilst Lord Eldon held it, and since it has been in one who has carefully followed his steps, has had an effect in producing a general persuasion that the powers of that officer have never been used but where the case manifestly demanded that they should be put in force."

Attorney-General of the country, as it appears to me, has a public duty to execute, in reference to which he ought to conceive that he has properly executed that duty if he has brought a fit and proper accusation before a jury, and has proceeded to the length of honestly and fairly examining the several circumstances given in evidence in support of, and in answer to that accusation; always recollecting that the jury will finally hear, from that wisdom which cannot mislead them, the true inferences that will arise upon facts which have been given in evidence on both sides." When sentence was to be pronounced on Lord Thanet and Mr. Fergusson, he said, "My Lords, I owe it to the noble Peer who stands before me, and I owe it to the learned gentleman who has been bred to my own profession, and I owe it to myself and to the public, to declare to your Lordships, that no inducement could have persuaded me to institute this prosecution, but a conviction produced by that evidence which was laid before me, that the noble Lord and the other defendant were justly implicated in the charge. Having done my duty to the public, according to what my notions of my duty require of me, I cannot do better than to leave the case where it is, and to call upon your Lordships to do that which is right between these defendants and the public."

I wish I could enliven these dull details of criminal proceedings by some professional *factiæ*; but I must not introduce well-known stories on no better plea than that Lord Eldon was in the habit of telling them. One or two, in which he was an actor as well as narrator, perhaps deserve to be recorded. "Lord Thurlow, when Chancellor, had asked me if I did not think that a wooden machine might be invented to draw bills and answers in Chancery?" Many years after this, when he had ceased to be Chancellor, and I was Attorney-General, a bill was filed against his friend Macnamara, the conveyancer,—and Lord Thurlow advised him to have the answer sent to me to be perused and settled. The solicitor brought me the answer; I read it. It was so wretchedly ill composed and drawn, that I told him not a word of it would do—that I had not time to draw an answer from beginning to end—that he must get some gentleman to draw the answer, from beginning to end, who understood pleading, and then bring it to me to peruse. I went down to

the House of Lords the same day, to plead a cause at the bar there. Lord Thurlow was in the House, and came down to the bar to me, and said, 'So I understand you think my friend Mac's answer won't do.' 'Do!' said I, 'my Lord, it won't do at all: it must have been drawn by that *wooden machine* which you formerly told me might be invented to draw bills and answers.' 'That's very unlucky,' says Thurlow, 'and impudent too, if you had known the fact—that *I drew the answer myself.*' "s

"I was generally successful against those who committed frauds on the revenue—but one smuggler beat me completely. There being a great rage among the ladies for French kid gloves, which were contraband, he imported from Calais 3000 right-hand gloves, which being immediately seized and sold by the Custom-house, he bought them for a trifle, as they were of no use without the left-hand gloves. He then imported 3000 left-hand gloves, and these he contrived to buy in a similar manner, as they were of no use without the right-hand gloves. Having got both sets, he was entitled to sell them at his own price, under the authority of the Government, to every milliner in London.

"Jemmy Boswell called upon me at my chambers in Lincoln's Inn, desiring to know what would be my definition of *Taste*. I told him I must decline informing him how I should define it, because I knew he would publish what I said would be my definition of it, and I did not choose to subject my notion of it to public criticism. He continued, however, his importunities in frequent calls, and in one complained much that I would not give him my definition of taste, as he had that morning got Henry Dundas's (afterwards Lord Melville), Sir Archibald Macdonald's, and John Anstruther's definitions of taste.—'Well, then,' I said, 'Boswell, we must have an end of this. Taste, according to my definition, is the judgment which Dundas, Macdonald, Anstruther, and you manifested when you determined to quit Scotland and to come into the South. You may publish this if you please.' "h

But perhaps there is nothing more amusing than the account of his *soldiering*, for when the dread of invasion spread over the land, he, too, wished to become a soldier, and bought a gun and a bayonet. But this was not the line in which he was destined to acquire a high reputation and to serve his

country: "During the long war," said he, "I became one of the Lincoln's Inn volunteers, Lord Ellenborough at the same time being one of that corps. It happened, unfortunately for the military character of both of us, that we were *turned out of the awkward squadron for awkwardness*. I think Ellenborough was more awkward than I was, but others thought that it was difficult to determine which of us was the worst." It should be mentioned, however, for the honour of the house of Scott, that Sir William used to say "*militavi non sine gloria*," for he actually commanded a corps of *Civilians* at Doctors' Commons, who were exceedingly *warlike*, their profitable practice in the Admiralty Court being threatened with annihilation by any rumour of peace.¹

As Sir John Scott is forthwith to be raised to the Bench, I am desirous of taking friendly leave of him as a barrister; and I cannot do this more effectually than by quoting the testimony in his favour left us by William Wilberforce: "Sir John Scott used to be a great deal at my house. I saw much of him then, and it is no more than his due to say, that when he was Solicitor and Attorney-General under Pitt, he never fawned and flattered as some did, but always assumed the tone and station of a man who was conscious that he must show he respects himself, if he wishes to be respected by others."²

I likewise copy, with pleasure, the simple and forcible praise of Townsend: "For six years of active official and extra-official duty, during which he screwed the pressure of his power more tightly than any Attorney-General before or since, with the single exception of Sir Vicary Gibbs, he still retained a large share of personal good-will, and was the favourite alike of the Bar, of suitors, and the public."

¹ Mr. Attorney, in a letter to his brother-in-law, Mr. Surtees, dated 6th June, 1799, thus speaks in modest terms of his own military prowess and Sir William's:—"We had a most glorious exhibition here on the King's birth-day, in the review of the volunteer corps, which furnished much the most magnificent spectacle I have ever seen. As a non-effective in an awkward squadron, I had

the modesty not to show myself in arms, though I have military character enough to attend the drill occasionally in a more private scene. Your friend Major Sir William Scott's corps, not having yet been bold enough to attempt the strong measure of firing, were also absent."—*Times*, i. 216.

² Life of Wilberforce, vol. v. p. 214.

CHAPTER CXCVII.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HE WAS MADE LORD CHANCELLOR.

ON the 8th of July, 1799, died Sir James Eyre, Chief Justice of the Common Pleas,—and the Attorney-General claimed his “pillow.” Mr. Pitt and Lord Loughborough, the Chancellor, wished much to retain him in his office,—representing to him how important it was for the Government to have his assistance in the House of Commons, and suggesting that for his own sake it would be better to wait for higher promotion. But his health and comfort requiring repose, he insisted on his right, and it was conceded to him, under an arrangement that he should be raised to the peerage. He used always to add: “The King, likewise, made it a condition that I should promise not to refuse the Great Seal when he might call upon me to accept it,—and this condition I thought I was bound to accede to.”^m—While deliberating about his title and his motto, he thus wrote to Sir William: “There seems to be, as suggested by Mitford, a difficulty about Allondale. The whole dale belonging to Mr. Beaumont, and I having no connection with it, it’s thought it may give offence to trespass upon it. If the Chancellor thinks so and you, I must resort to something else; there’s hardly any that don’t open to some such objection, and I may be driven to Eldon at last.—‘*Sit sine late decus*,’—is the best motto by far that I have heard of; and John told me he had it from you.

“As the ring is to be a compliment to the King, I have thought of Virgil’s description of the hive when the king is secure, as applicable to the unanimity of the country in the present security of its monarchy.

‘*Rege incolumi, mens omnibus una.*’ⁿ

^m George III. certainly had felt a high regard for him ever since the Regency question, and entirely approved of all his conduct, both in Parliament and as public prosecutor;—but, perhaps, Lord Eldon a little magnified his Majesty’s fondness for him, with the

view of showing that he held the Great Seal directly of the Crown, and that he was at liberty to take part, if he chose, against the Prime Minister.

ⁿ This alludes to the ceremony of his being called to the degree of Serjeant-at-Law,

"Pray, my dear brother, send me a line when you receive this. I am going to spend my last day in the Court of Chancery, and then I am to dine with the Chancellor, so that I fear I cannot get to the Commons; and, the moment I come out of Court, I could only come under strong emotion of spirits. I can find nobody that can think that Scott^o will do, except Lord R.; and I won't have it unless you bid me."

At last, resolving to take his title from his estate, he became John Lord Eldon, Baron Eldon, of Eldon, in the county palatine of Durham; and, being sworn of the Privy Council, and his patent as Chief Justice having passed the Great Seal, he thus addressed his venerable parent, who survived to rejoice in his elevation:—

"Lincoln's Inn, 19th July, 1799.

"MY DEAR MOTHER,

"I cannot act under any other feeling than that you should be the first to whom I write after changing my name. My brother Harry will have informed you, I hope, that the King has been pleased to make me Chief Justice of the Common Pleas and a Peer. I feel that under the blessing of Divine Providence I owe this—I hope I may say I owe this—to a life spent in conformity to those principles of virtue which the kindness of my father and mother early inculcated, and which the affectionate attention of my brother, Sir William, improved in me. I hope God's grace will enable me to do my duty in the station to which I am called. I write in some agitation of spirits, but I am anxious to express my love and duty to my mother, and affection to my sisters, when I first subscribe myself

"Your loving and affectionate son,

"ELDON."

I prefer the letter to his brother:—

"MY DEAR HARRY,

"I would write you a longer letter, but I am really so oppressed with the attention and kindness of my friends, that I can't preserve a dry eye. God bless you and my sister; remember me affectionately to Mr. and Mrs. Forster. You shall hear from me again. With the same heartfelt affection with which I have so often subscribed the name of J. Scott, I write that of your affectionate brother,

"ELDON."

which was a necessary preliminary to his being made a Judge. Rings are distributed by a new Serjeant, with an appropriate motto. An act of Parliament was passed (39 Geo. 3, c. 113) to allow him to be called Serjeant in vacation.

^o The title of Lord Scott, if he had taken it, would by this time have appeared sounding and historical, like Lord Say or Lord North. The surnames of Pitt and Fox, now so illustrious, must once have appeared very mean,

When these letters reached Newcastle, the members of the family threw themselves into each other's arms in a transport of joy, and the good old lady exclaimed, "To think that I, in this out-of-the-way corner of the world, should live to be the mother of a lord!"

In the midst of all these distinctions, one object for which he struggled he could not yet obtain. To please Lady Eldon, who had a just horror of the wigs with which Judges were then disfigured in society, he prayed the King that when he was not sitting in Court he might be allowed to appear with his own hair—observing, that so lately as the reigns of James I. and Charles I. judicial wigs were unknown. "True," replied the King, "I admit the correctness of your statement, and am willing, if you like it, that you should do as they did; for though they certainly had no wigs, yet they wore long beards."

Lord Eldon took his seat in Court on the first day of Michaelmas Term following.

All accounts admit that he was a most admirable Common-law Judge. At this period of his life he was not even A.D. 1789—1801. deficient in decision or despatch,—whether sitting with his brethren in *banc*, or by himself at *usi prius*;—and, though the business before him sensibly increased from the reputation he acquired, he did not suffer any arrears to accumulate. His judgments are well reported by *Bosanquet and Puller*; but they are almost all on abstruse and technical subjects. I have looked through them with a desire to select a few that might be interesting to my readers; but I find generally such points as these: that, "If the tenant in a writ of right pray *aid* after a general *imparlance*, it is good cause of demurrer,"^p—and that, "On a joinder in demurrer without a serjeant's hand, there may be a *non pros.*, as a serjeant must be met by a serjeant."^q One case turning on a principle of general jurisprudence he determined,—respecting the arrest in this country of the Comte d'Artois (afterwards Charles X. of France) for a debt contracted by him at Coblenz, in raising a corps of French emigrants, jointly with his brother (afterwards Louis XVIII.). Lord Eldon, after stating that "the case of this illustrious person must be decided on the same grounds that would operate in favour of the meanest individual," went on to examine the facts as they appeared

in the affidavits, and gave it as his opinion that the defendant was not liable to be arrested,—regard being had to the nature of the debt, and the circumstance of the defendant being an alien.*

On another question, which caused much excitement at the time, although fortunately it has become unimportant, I must take the liberty to think he was wrong; and I am afraid that, unconsciously to himself, his opinion was a little biassed by religious prejudice. This was, “whether Roman Catholic peers had a right to frank letters sent by the post?” They received a writ of summons to Parliament like all other peers; they might have sat and voted any day, on taking the oaths of supremacy and abjuration; no one could tell that they might not have chosen to do so; they were admittedly entitled to all other privileges of the peerage; and Protestant peers were allowed to frank without taking the oaths and their seat,—nay, began to frank forty days before the time appointed for the meeting of Parliament. The fact that Catholic peers, in practice, had not enjoyed the privilege, was only proof that they had been oppressed, and could not operate as a forfeiture. Yet Lord Eldon, thinking, perhaps, that this might be the first step towards Catholic emancipation,—a measure which he ever conscientiously believed would be the ruin of the country,—persuaded himself and his brother Judges that, as the Catholic peers did not, *de facto*, sit in Parliament, and as they had no petitions sent them to be presented to the House of Lords, and as they did not take a part in any parliamentary proceedings, the right of franking given to the members of the legislature—the better to enable them to do their duty in Parliament—ought to be confined to Protestants.*

Lord Eldon, while Chief Justice of the Common Pleas, introduced the excellent custom of giving *reasons* for the certificate of the Judges upon a case from a Court of Equity upon a legal question; but, when Chancellor, he so carped at the *reasons* of Lord Kenyon and other, Common-law Judges, that they refused to do more than simply to give an answer in the affirmative or negative to the questions put to them.†

* Sinclair v. Charles Philippe, 2 B. & P. 363.

† Lord Letre v. Lord Auckland, 2 B. & P. 139.

‡ See Thompson v. Lady Lawley, 2 Bos. & Pul. 303, where will be found an admirable

dissertation by him in a “certificate case,” on the point whether, under a general devise of “all manors, messuages, tenements, and hereditaments, *household messuages* shall pass?

I find in "the books" the report of only one case that came before him on the circuit. At Exeter he had to try a number of tailors who were indicted before him for a riot arising out of a combination for a rise of wages. Jekyll, for the defendants, cross-examining a witness as to the number present, the Lord Chief Justice reminded him that, as according to law "three may make a riot," this inquiry was irrelevant. *Jekyll*: "Yes my Lord, Hale and Hawkins lay down the law as your Lordship states it,—and I rely on their authority; for if there must be *three men* to make a riot,—the rioters being *tailors*, there must be nine times three present, and, unless the prosecutor makes out that there were twenty-seven joining in this breach of the peace, my clients are entitled to an acquittal." *Lord C. J.* (joining in the laugh): "Do you rely on common law or statute?" *Jekyll*: "My Lord, I rely on the well-known maxim, as old as MAGNA CHARTA, *Nine tailors make a man*." Lord Chief Justice Eldon overruled the objection; but the jury took the law from the counsel instead of the Judge, and acquitted all the defendants."

He took his seat in the House of Lords on the 24th of September, 1799, when Parliament was suddenly called together for an augmentation of the regular army, by permitting voluntary enlistment into it from the militia.—He had considerable weight here; but this arose from his high station, from his repute as a great Judge, and from the earnestness and seeming sincerity of his mode of speaking; for he never was much of an orator, or even of a debater,—having no natural felicity of diction,—being utterly reckless as to the construction of his sentences,—and having no scruple or remorse in using the same word several times in the same sentence with a different meaning, or in using different words in the same sentence with the same meaning.* There was not the slightest effort at arrangement in his discourses, and his reasoning on political subjects was often shallow and illogical. But, to give effect to his arguments, he appealed to his conscience; and, if he was at a loss for language, he could always shed tears.

His maiden speech in the House of Lords was on the third
 Feb. 27, reading of a bill to continue the suspension of the
 1800. Habeas Corpus Act. Lord Holland having thrown
 out a taunt that notwithstanding the alleged frequency of high treason, and the vast crowds who had been charged with that

* *See Miller*, 23rd edition, p. 275.

he judged of by the reports, which generally greatly improved it.

crime in England, O'Coigley, the priest, was the single individual who had been found guilty; Lord Eldon said, that "the person so convicted was proved to have been planning, with disaffected bodies of men in this country, the destruction of the British interest in Ireland; and surely the noble Lord need not be told that a person attempting to sever the crown of Ireland from that of England was guilty of an overt act of treason. The noble Lord had argued that none should be apprehended but such as could be brought to trial; but he should know that cases might occur, in which, for want of two witnesses, persons could not be legally convicted, though no doubt remained of their guilt. But would the noble Lord say that therefore no danger existed? Would the noble Lord argue, that, because sufficient legal proof could only be brought against one of the men who were put upon their trial at Maidstone, the legislature should not have endeavoured to prevent the mischief? He would venture to say, that to the suspension of the Habeas Corpus Act was owing the preservation of the crown in the house of Hanover; and that, by it, late and former conspiracies had been broken to pieces."

He warmly supported Lord Auckland's bill to forbid a marriage between a woman divorced for adultery, and her paramour. He said, "he did not think it would be sufficient to prevent the enormous crime, for so he regarded it, of adultery, but because he thought it would have a tendency to such prevention. It was true that the contract of a seducer to marry his victim was invalid in law; but a simple and silly woman might be likely enough to act on the opinion that it would be fulfilled, and that might be one of the terms on which she surrendered her virtue. Let her, therefore, be told by this bill that she would be effectually prevented from marrying her paramour. He was certain that nine out of every ten cases of adultery that came into the Courts below, or to that bar, were founded in the most infamous collusion, and that, as the law stood, it was a farce and a mockery, most of the cases being previously settled in some room in the city; and that juries were called to give exemplary damages, which damages were never paid to, nor expected by, the injured husband." The bill passed the House of Lords, but was thrown out in the House of Commons.

The Irish Union chiefly occupied the attention of Parlia-

ment during the present session; but he took no part in the discussions on this measure. Had he been aware of Mr. Pitt's ulterior views with respect to the Roman Catholics, he no doubt would have opposed it.

When on the point of still greater elevation, Lord Eldon was deprived, by death, of two dear relatives, whose loss rendered prosperity of less value in his eyes. In the end of the year 1799 expired his brother Henry, to whom he had been tenderly attached. Writing to one of his sisters, he said:—"I have felt very acutely upon this event; and my mind has been running back through scenes of infancy, youth, and manhood, which I spent with poor Harry, till my firmness has occasionally quite failed me, and my spirits have been depressed excessively." In the following summer the worthy coal-fitter's widow paid the debt of nature, after seeing her eldest son universally revered as Judge of the Court of Admiralty, as well as her youngest making her "the mother of a lord;" and although, as she was in her ninety-first year, her "boy Jack," as she continued to call him, must have felt grateful that she had been preserved to him so long, it must have been a sore reflection to him, that on any future good fortune that might befall him, the pleasure of making her happy by announcing it to her was gone for ever.

In the life of Lord Loughborough I have entered minutely into the history of the crisis which ended in the resignation of Mr. Pitt, and the appointment of Mr. Addington as Prime Minister.* I do not think that Lord Eldon was concerned in it till the King at length received Mr. Pitt's proposal for Catholic Emancipation. He is supposed then to have been consulted at Buckingham House, and to have concurred in the answer, that "his Majesty, highly disapproving of the measure, would apply himself, as speedily as possible, to the reconstruction of the Cabinet." He rejoiced much to see a man of Mr. Addington's inflexibly Protestant principles placed at the head of the Treasury, but he ever eagerly asserted that the offer of the Great Seal was made to him directly by the King, and he delighted in the appellation of the "King's Lord Chancellor,"—making a distinction unknown to the Constitution—and thinking, erroneously, that his relation to the First Minister of the Crown was different from that of a Chancellor appointed in the ordinary manner on the composition of a new Government.

* Vol. VIII., Ch. CLXXIV.

Early in February it was generally rumoured, and I believe definitively settled, that the Great Seal should be intrusted to him, both the King and the new Premier having unbounded confidence in his anti-Catholic zeal. Congratulations poured in upon him from all quarters; but by the following letter it appears that he was resolved not to "take joy" till the bauble was actually in his custody;—a caution the more necessary on account of the alarming state of the King's health.

"14th February, 1801. Common Pleas.

"DEAR LORD KENYON,

"I feel a good deal of uneasiness to protect myself against the possibility of your Lordship's thinking that I am wanting in the respect and duty which I owe to you, and which I can truly say has ever been accompanied with the most grateful and affectionate regard. May I therefore be allowed to assure you that, whatever other persons may have thought it becoming to mention in conversation respecting themselves or me, nothing has passed yet with respect to me, that would warrant me, consistently with propriety, in making that communication to you which it would be my duty to make, as I wish to make it to you, whenever the matter is settled the one way or the other? I can say no more than that there is a probability that I may be compelled to quit this little Court, in which I should have wished to end my days.

"Your obliged and faithful friend and servant,

"ELDON."

Thurlow, probably still more delighted with the dismissal of Loughborough, against whom he continued to cherish the deepest hatred, than with the promotion of his own *protégé*, poured forth his feelings in the following effusion to him whom he considered the new Lord Chancellor:—

"MY DEAR LORD,

"Though I don't know the circumstances which induced you to give up the Common Pleas, I have no doubt your decision upon them was guided, as upon all occasions, by wisdom and honour; and I rejoice sincerely in the event.

"But I congratulate still more with the House and the country. Their judgments will be no less illustrated by sound principles and clear deductions than supported by authority; not let down by unsatisfactory attempts to argue, or shaded by surmises of mean partialities and prejudices.

"If I can shake off this painful disorder, my first exertion will be an endeavour to see you. There is not enough remaining of me to be useful; but I shall take great satisfaction in finding arranged the funda-

mental principles of that conduct, which is to extricate the present difficulties incurred by the mere want of such principles. . . .

"I am ever, my dear Lord,

"Your very faithful and affectionate friend,

"THURLOW.

"Wednesday, 18th Feb. 1801."

After a month of unexampled confusion, during which it was difficult to say in whom the executive government was vested, the attempt to retain Mr. Pitt at the head of affairs, on his renouncing all his measures for the relief of the Catholics, failed, and his administration came to a close. The transfer of the Great Seal took place on the 14th of April, in an interval when his Majesty was better, but still in a state of much excitement. Lord Eldon used to give the following account of the scene—which he represented as a striking proof of the King's fondness for him:—"When I went to him he had his coat buttoned thus (one or two buttons fastened at the lower part), and, putting his right hand within, he drew out the Seals from the left side; saying, '*I give them to you from my heart!*'" Mr. Twiss observes, "It is not impossible that the unusual demonstration with which the King accompanied the transfer of the Great Seal to Lord Eldon may have been partly occasioned by the then unsettled state of the royal mind."^b

Lord Eldon, at the commencement of his career as Chancellor, was placed in a situation of extreme difficulty, and he has been severely blamed for the course he pursued. It is now incontestably proved that for above two months the King, with short intermissions, was in a state of mental alienation, and was under the care of physicians particularly skilled in the treatment of his peculiar malady. His Chancellor always stoutly asseverated that the royal signature was never obtained, nor the royal pleasure taken on any act of state, when the royal mind was not clear and collected. This statement it is very difficult to credit. The following extract from

^b 1 Twiss, 261. We may judge of the opinion of the new Ministers on this subject from an entry in the Diary of Mr. Abbot (afterwards Lord Colchester), lately published in the Memoirs of Lord Sidmouth — "April 16th. Mr. Addington told me in the House that the alternative yesterday was,

whether the King should only transfer the Great Seal from Lord Loughborough to Lord Eldon, or be requested to do several other things; and the unanimous opinion was, that *his Majesty should only do one thing that day.*"—Vol. i. p. 401.

Lord Eldon's "Anecdote Book" shows the King's general situation :—

"His Majesty not being able to hold a council, and his recovery being doubtful, it was not judged fit that the Chief-Justiceship of the Common Pleas should be resigned, the offices of Chancellor and Chief Justice being by law capable of being held together, and in case his Majesty did not recover, it being thought certain that the Great Seal would be taken from my custody, and that I should not be restored to the Chief-Justiceship if I had resigned it. During all the period, therefore, in which his Majesty's indisposition continued, I remained in the very singular situation of a person both Lord Chancellor and Lord Chief Justice of the Common Pleas, exercising publicly the duties of both offices."^c

Yet his Majesty was allowed to sign commissions as usual. He could write seemingly rational notes like the following ; but they did not deceive the Chancellor, who was in correspondence with his medical attendants and with members of the royal family :—

"Kew, April 29th, 1801,—past One, P.M.

"On returning from walking, the King has found *his* Lord Chancellor's letter, and desires the commission for passing the bills now ready for his assent may, if possible, be sent this evening to the Duke of Portland's office, from whence it will be forwarded early to-morrow morning. His Majesty is pleased at finding the Bill against Seditious Meetings got through the House of Lords yesterday with so little trouble.

"The King would by no means have wished that his Lord Chancellor should have omitted sitting in the Court of Chancery to-morrow, for the mere matter of form of bringing himself the commission, as his Majesty is so fully convinced of the satisfaction the suitors must feel at that Court being presided over by a person of real integrity, talents, legal knowledge, and good temper. He cannot but add having felt some pleasure at hearing that the Lord Chancellor sat the other day on the Wool-sack between Rosslyn and Thurlow, who ever used to require an intermediate power to keep them from quarrelling. How soon will the shins of Pepper permit him to take the coil ?

"GEORGE R."

After his Majesty's health had considerably improved, Dr. John Willis thus addressed the Chancellor :—

"May 16th, 1801.

"MY LORD,

"We have not seen the King better than this morning. Your Lord.

ship's conversations with his Majesty have not-hitherto produced all the effect we wish. He seems rather to select and turn any part to his purpose than to his good. The Council, he tells us, you propose to be in London. Of course, we wish much that your Lordship should see the King again soon—that every means possible should be used to reconcile his Majesty to the present control: for till a consciousness of the necessity of temperance arises in his own mind, it is absolutely necessary to have resort to artificial prudence. I have the honour to be

“Your Lordship's obedient humble servant,

“J. WILLIS.”

The public, however, were kept in ignorance of the “control” and “artificial prudence” exercised, and at times the excitement seemed entirely to have subsided. Prior to a Council, at which his Majesty was to appear, and important acts of state were to be sanctioned, thus wrote the Prime Minister to the Chancellor:—

“Downing Street, 21st May, 1801.

“MY DEAR LORD,

“I came so late from Kew, and was so hurried afterwards till half-past twelve, when I went to bed, that it was not possible for me yesterday to write to you, as I wished and intended. During a quiet conversation of an hour and a half, there was not a sentiment, a word, a look, or a gesture, that I could have wished different from what it was;—and yet my apprehensions, I must own to you, predominate. The wheel is likely to turn with an increasing velocity (as I cannot help fearing), and if so, it will very soon become unmanageable. God grant that I may be mistaken! We have, however, done our best. The Council, as your Lordship has probably been apprised by Mr. Fawcener, is to be held at the Queen's House at one.

“Ever sincerely yours,

“HENRY ADDINGTON.”

In a few days after, Dr. Thomas Willis, the clergyman, supposed to be the most skilful of the family, wrote to the Chancellor as follows:—

“Kew House, May 25th, 1801.

“MY LORD,

“Dr. John [Willis] is riding with the King, but we conferred together before he set out, and he desired that I would write the letter which your Lordship had requested to have this morning.”

“The general impression yesterday, from the King's composure and quietness, was, that he was very well. There was an exception to this in the Duke of Clarence, who dined here. ‘He pitied the family, for he saw something in the King that convinced him that he must soon be confined again.’”

"This morning I walked with his Majesty, who was in a perfectly composed and quiet state. He told me, with great seeming satisfaction, that he had had a most charming night, 'but one sleep from eleven to half after four;' when, alas! he had but three hours' sleep in the night, which, upon the whole, was passed in restlessness, in getting out of bed, opening the shutters, in praying at times violently, and in making such remarks as betray a consciousness in him of his own situation, but which are evidently made for the purpose of concealing it from the Queen. He frequently called out, 'I am now perfectly well, and my Queen, my Queen has saved me.' Whilst I state these particulars to your Lordship, I must beg to remind you how much afraid the Queen is lest she should be committed to him; for the King has sworn he will never forgive her if she relates anything that passes in the night.

"The only thing that he has repeated of your Lordship's conversation is, that you told him to keep himself quiet. He certainly intends going to Windsor to-morrow morning early for the day. Had not your Lordship, therefore, better write to his Majesty, that you had proposed, agreeably to his permission, to have paid your duty to him to-morrow, but that you understand he is going to Windsor,—where you may endeavour to fix your audience for Wednesday?

"It is too evident, my Lord, that it cannot be proper, since it cannot be safe, for the King to go to Weymouth so soon as he intends. Your Lordship will, therefore, no doubt, think it requisite to take steps to prevent it as soon as possible. I have the honour to be

"Your Lordship's most obedient servant,

"THOS. WILLIS."

Lord Eldon, accordingly, thus addressed the King:—

"The Lord Chancellor, offering his most humble duty to your Majesty, presumes to submit to your Majesty's most gracious consideration, that it appears to him that great difficulties may arise in matters of public concern, if your Majesty should be pleased, during the time of the sitting of Parliament, which he conceives cannot now be long, to remove to any considerable distance from Parliament. It cannot but happen that before Parliament can be closed, some intelligence should be received from abroad, upon which it may be absolutely necessary to learn promptly, and perhaps instantly, your Majesty's pleasure, and to learn it by communications more ample than your Majesty could possibly allow to your servants, if they were not personally attending, in the discharge of their duty, upon your Majesty. Communications, in the form of messages to Parliament, not admitting of delay, may also become necessary. Impressed at this moment with a deep sense that it is extremely important on all accounts to your Majesty's welfare, that your Majesty should be graciously pleased to secure to your servants the means of personally communicating with your Majesty, at least during the short interval which must elapse before Parliament separates, at the close of which they may, in obedience to your Majesty's commands, attend your Majesty

any where, the Lord Chancellor ventures to hope that your Majesty will not think it inconsistent with his duty, that he should have most humbly, but most earnestly, submitted to, your Majesty the expression of his conscientious conviction upon this subject.

"The Lord Chancellor also requests your Majesty's gracious permission to introduce to your Majesty the Master of the Rolls and the Solicitor-General previous to your Majesty's birth-day. As Tuesday is the seal-day in your Majesty's Court of Chancery, your Majesty may probably have the goodness to give that permission on Wednesday."

From his Majesty's answer, it might be supposed that his recovery was complete:—

"Kew, May 31st, 1801.

"The King cannot allow any difficulty to stand in the way of his doing what may be most useful to the public service. He will, therefore, postpone his journey to Weymouth till the close of the session of Parliament, relying that the Lord Chancellor and Mr. Addington will bring it as soon as possible to a conclusion. He will not, therefore, change any arrangement for removing the things necessary to be sent to Weymouth, but he and his family will remain at hand till that period. His Majesty will be glad to receive at the Queen's Palace the Master of the Rolls and Solicitor-General on Wednesday, any time after one that may best suit the Lord Chancellor; when he hopes to hear who may be most eligible to be appointed Solicitor-General to the Queen.

"GEORGE R."

Yet, a week after, the Princess Elizabeth thus writes to Dr. Thomas Willis:—

"June 6th, 1801.

"After receiving one note you will be surprised at this; but second thoughts are sometimes best: besides which, I am commanded by the Queen to inform you by letter how much this subject of the Princess is still in the King's mind, to a degree that is distressing, from the unfortunate situation of the family; and Mamma is of opinion that the Lord Chancellor should be informed of it, as he has mentioned the subject to Mr. Dundas to-day. The Queen commands me to add, that if you could see her heart, you would see that she is guided by every principle of justice, and with a most fervent wish that the dear King may do nothing to form a breach between him and the Prince,—for she really lives in dread of it; for from the moment my brother comes into the room till the instant he quits it, there is nothing that is not kind that the King does not do by him. This is so different to his manner when *well*, and his ideas concerning the child so extraordinary, that, to own to you the truth, I am not astonished at Mamma's uneasiness. She took courage, and told the King, that now my brother was quiet, he had better leave him, so, as he never had forbid the Princess seeing the child when she pleased; to which he answered, 'That does not signify; the Princess shall have

her child, and I will speak to Mr. Wyatt about the building of the wing to her present house.' You know full well how speedily every thing is *now ordered* and done. In short, what Mamma wishes is, that you would inform the Lord Chancellor that his assistance is much wanted in preventing the King doing any thing that shall hurt him. The Princess spoke to me on the conversation the King had had with her, expressed her distress, and I told her how right she was in not answering, as I feared the King's intentions, though most kindly meant, might serve to hurt and injure her in the world. I hope I was not wrong, but I am always afraid when she speaks to me on such unfortunate subjects. I think the King heated and fatigued, which I am not surprised at, not having been one minute quiet the whole day. I assure you it is a very great trial, the anxiety we must go through; but we trust in God,—therefore we hope for the best.

"Your friend,

"ELIZABETH."

In another letter to him, dated 9th June, her Royal Highness, after mentioning the Queen's name in connection with some indifferent subject, thus proceeds:—

"She commands me to say to you that she wishes the Lord Chancellor would show Mr. Addington, that, as the King is contented with it, that he had better not hurry our going, as he is so much better, that there is hope that in gaining strength it will ensure us from having a relapse, which you may easily believe is her earnest and daily prayer. He has been very quiet, very heavy, and very sleepy, all the evening, and has said two or three times, yesterday was too much for him. God grant that his eyes may soon open, and that he may see his real and true friends in their true colours! How it grieves one to see so fine a character clouded by complaint! But He who inflicted it may dispel it; so I hope all will soon be well.

"Your friend,

"ELIZABETH."

Finally she writes to him on the 12th June:—

"I have the pleasure of saying, yesterday was a very good day, though the sleepiness continues to a great degree. I am told the night has been tolerable, but he has got up in his usual way, which is very vexatious. I am commanded by the Queen to desire you will say every thing from her to the Lord Chancellor, and thank him in the strongest terms for the interest he has taken in her distress. She so entirely builds her faith on him, that she doubts not his succeeding in every thing with his Majesty, who, to say true, greatly wants the advice of so good a friend and so good a head. How providential is it that he is, thank God! placed where one can know his worth! I have just seen Brown, who is very

well satisfied. This morning, therefore, I trust all is going on well, though I feel that there is still fear.

"Your friend,

"ELIZABETH."

Near a week after, Dr. Thomas Willis wrote the following alarming letter to the Lord Chancellor :

"Kew Green, June 16th, 1801. Eight o'clock, P.M.

"MY LORD,

"Dr. John, who has not seen the King, will bring this to town. I have nothing to say that is in truth very favourable. His Majesty rode out this morning at ten o'clock, and did not return till four: he paid a visit in the course of the day to Mr. Dundas. His attendants thought him much hurried, and so think his pages. He has a great thirst upon him, and his family are in great fear. His Majesty still talks much of his prudence, but he shows none. His body, mind, and tongue are all upon the stretch every minute; and the manner in which he is now expending money in various ways, which is so unlike him when well, all evince that he is not so right as he should be.

"My Lord,

"Your Lordship's most obedient servant,

"THOMAS WILLIS."

His Majesty seems now to have become very impatient of the control of the Willis, and very desirous to get rid of them; whereupon Lord Eldon, who was supposed to have the greatest influence over him, wrote to him, earnestly requesting that at least Dr. Robert might still be allowed to be in attendance.

His Majesty returned the following very touching answer, which it is difficult to peruse with a dry eye:—

"Kew, June 21st, 1801.

"The King would not do justice to the feelings of his heart, if he an instant delayed expressing his conviction of the attachment the Lord Chancellor bears him, of which the letter now before him is a fresh proof; but, at the same time, he cannot but in the strongest manner decline the idea of having Dr. Robert Willis about him. The line of practice followed with great credit by that gentleman renders it incompatible with the King's feelings that he should, now by the goodness of Divine Providence restored to reason, consult a person of that description. His Majesty is perfectly satisfied with the zeal and attention of Dr. Gisborne, in whose absence he will consult Sir Francis Millman; but cannot bear the idea of consulting any of the Willis family, though he shall ever respect the character and conduct of Dr. Robert Willis. No person,

that ever has had a nervous fever, can bear to continue the physician employed on the occasion : and this holds much more so in the calamitous one that has so long confined the King, but of which he is now completely recovered.

“GEORGE R.”

The Lord Chancellor was ready enough to take the King's word for his recovery ; and having sent him a commission to sign, for giving the Royal assent to Acts of Parliament, received the following answer :—

“Kew, June 23rd, 1801.”

“The King is much pleased with the whole contents of the Lord Chancellor's letter, and returns the commission, having signed it, for passing the bills now ready for the Royal assent. He cannot avoid adding, as he knows it will give pleasure to the person to whom it is addressed, that appetite and good sleep is perfectly, by the goodness of Divine Providence, restored ; and that no degree of attention shall be wanting to keep those necessary assistants of perfect health.

“GEORGE R.”

In spite of the apprehensions of his family and his physicians, his Majesty's health soon after really was restored, and he remained pretty rational for several years. Lord Eldon, I think, has been much too severely blamed for his personal dealings with the King under such circumstances. In a letter which he wrote at this time to Lord Ellenborough he says :—“I think Dr. Reynolds told us one day in your absence, that the King was better when he was speaking to us than he was for a *long while* after he began to go out again in 1789. Taking this to be as improper as may be in Thurlow, Camden, &c., still we may do great prejudice if we do not attend to it—and assume, upon an incorrect view of fact, a ground of despair.” “When there was a moral certainty, that if entirely conscious and in possession of his faculties, the King would have approved of the steps to be taken, and that he would be sure, if again conscious and in possession of his faculties, to sanction and ratify what had been done in his name,—and when the most serious detriment would have arisen to the public service from suspending the exercise of the Royal authority,—I must say that the loud complaints against Lord Eldon for acts of state done in the King's name, during the King's temporary incapacity, savour a little either of prudery or of faction. Nor could it be expected that in public the Chancellor

^a MS. letter in the papers of the Earl of Ellenborough.

would admit the full truth—though I could much wish that he had made his statements on the subject in Parliament with less of emphasis and solemnity.—He will more easily be forgiven for the manner in which he mystified his friends who put impertinent questions to him on the subject in private society. “Eldon,” says Wilberforce in his Diary, “had just received the Great Seal, and I expressed my fears that they were bringing the King into public too soon after his late indisposition. ‘You shall judge for yourself,’ he answered, ‘from what passed between us when I kissed hands on my appointment. The King had been conversing with me, and when I was about to retire, he said, ‘Give my remembrance to Lady Eldon.’ I acknowledged his condescension, and intimated that I was ignorant of Lady Eldon’s claim to such a notice. ‘Yes, yes,’ he answered, ‘I know how much I owe to Lady Eldon; I know that you would have made yourself a country curate, and that she has made you my Lord Chancellor.’”^d

Till the happy and unexpected turn which took place in the King’s health in the end of June, Lord Eldon had been contemplating a Regency, and a speedy change of Administration: but he now looked forward to a long tenure of office, although he would not have believed any wizard who should have foretold that he was to be Chancellor, not only under George III., by whom he was so much liked, but under George IV., by whom as yet he was mortally hated,—and that he was to hold the office longer than any of his predecessors since the time of St. Swithin.

On the first day of Easter Term he headed a grand procession from his house in Bedford Square to Westminster Hall, and he was installed in the Court of Chancery, being attended by all his colleagues in the Cabinet, and the whole profession of the law.^e

^d Life of Wilberforce, iii. 9

^e “Alexander Lord Loughborough, Lord High Chancellor of that part of the United Kingdom of Great Britain and Ireland called Great Britain, having delivered the Great Seal to the King at the Queen’s House on Tuesday, the 14th day of April, 1801, his Majesty the same day delivered it to John Lord Eldon, Chief Justice of the Court of Common Pleas, with the title of Lord High Chancellor of that part of Great Britain and Ireland called Great Britain, who was then

sworn into the said office before his Majesty in Council. His Lordship sat in Lincoln’s Inn Hall during the Seals before Easter Term, and on Wednesday, the 22nd day of April, 1801, being the first day of Easter Term, he went in state from his house in Bedford Square, accompanied by the Earl of Chatham, Lord President of the Council, the Earl of Westmoreland, Lord Keeper of the Privy Seal, his Grace the Duke of Portland, one of his Majesty’s Principal Secretaries of State, the Earl of St. Vincent, the Earl of

His promotion had been very generally approved of, and, although it cannot be said that he continued to enjoy the same unmixed applause which had been showered down upon him as Chief Justice of the Common Pleas, the public expectation of him in his new position was by no means disappointed. I reserve for the conclusion of this memoir a deliberate estimate of his qualities as an Equity Judge, and a review of his decisions. At present it must suffice to say, that if there was still something to desiderate, the "marble chair" certainly had not been so ably filled since the time of Lord Hardwicke.

CHAPTER CXCVIII.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HIS FIRST RESIGNATION
OF THE GREAT SEAL.

LORD ELDON'S first speech in the House of Lords as Chancellor I myself heard, and I have mentioned it in my account of the striking scene when Lord Thurlow, after years of absence, reappeared, to support the right of a woman to be divorced from her husband, who had committed incest with her sister.¹

He next came forward to support a Bill brought in to indemnify those who had acted in arresting and detaining persons suspected of high treason during the suspension of the

Rosslyn, Lord Hobart, one other of his Majesty's Principal Secretaries of State, Lord Kenyon Chief Justice of the Court of King's Bench, the Right Hon. Henry Addington, Chancellor and Under Treasurer of the Exchequer, the Right Hon. Sir Wm. Scott, Knight, Judge of the High Court of Admiralty of England, the Judges, King's Serjeants, King's Counsel, and several other persons. The Lords accompanied him to the Court of Chancery, where (before he entered upon business), in their presence, he took the oath of allegiance and supremacy, and the oath of Chancellor, the same being administered by the Deputy Clerk of the Crown, Master Holford, the Senior Master in Chan-

cery, holding the book (the Master of the Rolls being prevented from attending by indisposition), which being done, the Attorney General moved that it might be recorded, and it was ordered accordingly. Then the Lords departed, leaving the Lord Chancellor in Court.—*Memoir Book*, No. 2, fol 80

I ought to have mentioned that, on the arrival in his own country of the news of his appointment as Chancellor, all the bells in Newcastle and Gateshead were set a-ringing, and all the ships in the Tyne hoisted their flags. The "Hoastmen's Company" must have been particularly proud of their brother, freeman.

¹ *Anti*, Vol. VII. 36 Parl Hist. 1432.

"Habeas Corpus Act." This was violently opposed by Thurlow, from spite to Mr. Pitt and Lord Loughborough; but Lord Eldon gallantly defended it, saying that "one of his earliest maxims in politics was, that political liberty could not be durable unless the system of its administration permitted it to be occasionally parted with, in order to secure it for ever." When it was otherwise, liberty contained the seeds of its own destruction. With respect to the consideration of necessity, he was aware that it was often the plea of tyrants; yet it was that consideration on which the most moderate men, when they took prudence for their guide, must sometimes act. In all periods of our history, their Lordships would find that the benefits of the Habeas Corpus Act were occasionally relinquished; but the suspension of the Habeas Corpus Act did not take away the responsibility of Ministers. There were cases in which, if a Minister did not act, he would deserve to lose his head. Such, for instance, and he stated no hypothetical case, was the occasion of ambassadors passing from Ireland through England to France, and *vice versâ*, for purposes of a treasonable nature. In such a case, where the information was such as could not be doubted, if a Minister refused to act, what would he not deserve? And yet such a person could not be indemnified for his conduct, without such a Bill as that before their Lordships." The Bill was carried by a majority of 54 to 17.^s

The only other debate in which he took a part, before the conclusion of the session, was on the Bill directed against HORNE TOOKE "to prevent priests in orders from sitting in the House of Commons"—when he had, again to combat Lord Thurlow, who insisted that it was an encroachment on the rights of the clergy. The ground taken by Lord Eldon was, that, by the canons of the Anglican Church, orders are indelible—but this does not seem to show very conclusively that a clergyman, without cure of souls, or benefice, may not sit in the House of Commons, while bishops, with a still more sacred character impressed upon them, and with all their episcopal duties to perform, sit in the House of Lords, to the general contentment of the nation.^h

A few days before the prorogation his Majesty set off on his long talked of excursion to Weymouth, and in his way paid a visit at Cuffnells in Hampshire. While he was there, Mr. Rose, the master of the mansion, wrote a very alarming letter to

Lord Eldon,—in which, after giving an account of the King, when riding to Lymington, being caught in a heavy shower of rain,—being wet through, as no entreaties would prevail with him to put on a great coat,—remaining three quarters of an hour conversing with the mayor,—proceeding to Sir Harry Nicoll's, and dining without changing his clothes,—and again getting wet as he rode home, adds—

“There is no describing the uneasiness I felt at his Majesty keeping on his wet clothes, because I recollect Mr. Pitt telling me that his first illness, in 1788, was supposed to be brought on by the same thing; but there was no possible means of preventing it. The exercise, too, must have been, I fear, too much after the disuse of riding for some time. His Majesty intends going to Southampton (ten miles) on horse-back to-day, and returning to dinner. I mention these circumstances to your Lordship, deriving some relief to my own mind from it, without a hope of your being able to take any *immediate* step in concert with Mr. Addington or others of his Majesty's servants, but trusting that it may induce your Lordship to make as early a visit to Weymouth as possible.”

Lord Eldon hurried down to Weymouth on pretence of carrying important papers for his Majesty to sign, but, finding him perfectly tranquil, returned after a stay there of three days.

Nothing was now talked of but the negotiation with Bonaparte. It was generally understood that the Chancellor was of the section in the Cabinet bent on carrying on the war, and in this belief Windham wrote him a letter on the measures which ought to be taken to guard the country against invasion, thus concluding—“With all my dread of invasion, I hope you do not suppose me to consider the danger of invasion as by any means equal to those of peace. A man may escape a pistol, however near his head, but not a dose of poison. If I am not mistaken, you do not very materially differ from me in this opinion.” This conjecture was pretty near the truth, but within a fortnight Lord Eldon wrote the following letter to his brother, Sir William:—

“The preliminaries of peace with France were signed last night. The terms, I understand, I am not at liberty to mention. With my head and heart so full as they have been for ten days past, I have felt, most deeply, the want of such a friend as you here. I am perhaps, at this moment, one of the most anxious of mankind. I think, upon the whole, the peace, as to its terms, not objectionable, if we could forget the damnable principles upon which France has acted and may con-

time to act. You would excuse a great deal upon all subjects if you knew the state of mind I am in."

When the preliminaries were about to be discussed in the House of Lords, he thus addressed his predecessor, in the hope of mollifying him and of obtaining his vote or his proxy:—

"MY DEAR LORD,

"I received the honour of your Lordship's letter from Bath, and shall give all due attention to the subject of it.

"His Majesty has put into my hands the paper which your Lordship gave him at Weymouth respecting the Princesses, and in the course of next week that business will be finished.

"I most sincerely hope that your Lordship's health is re-established. My vacation, which has been spent in great anxiety of mind and depression of spirits arising from apprehensions, is coming to its close, leaving me little relieved from either. If your Lordship had been within the reach of conversation, I might occasionally have unburthened that mind to you so far as I understand the principles upon which a person who has the misery of being in a cabinet is to act would have allowed me. Your Lordship will conjecture that I am alluding to what has passed as to the peace, with reference to which the grounds upon which I have acted cannot perhaps with propriety be stated upon paper, or without mischief be insisted upon in debate. They are such, that if I can rejoice in the peace it is with trembling, and I am not surprised that many men whom I honour and revere tremble without rejoicing. I have satisfied myself that, attending to all considerations, such as can and such as cannot be publicly stated, the measure is justifiable and right; but your Lordship, I think, can sufficiently conjecture what are my principles to believe that I feel considerably on this subject. I have written thus much under a persuasion that your Lordship will receive in confidence what is written from respect, and from respect due from me to you, whatever may be your opinion upon what has been passing. Whatever that may be, I sincerely hope your health and your inclination will bring you to Parliament. If you there approve what has been done, it will give great sanction to the measure, and great consolation to me personally. If you disapprove, I shall nevertheless, I am sure, have the satisfaction of seeing you repressing by the weight of your authority those who will approve upon the principles broached at the Shakspeare Tavern, and which you and I abhor. I do not know whether your Lordship will or will not blame me for what I have written, but I had my pen in my hand, and I could not refrain from unburthening a mind labouring with anxiety. You'll be so good as commit it to the fire after you have read what remains—which is only a cordial expression of all good wishes for your health, with an assurance that I am, with much respect and regard, my dear Lord,

"Your obliged and obedient humble servant,

"October 24, 1801."

"ELDON.

Stiff and formal as is this production under the pretence of great openness, it produced the desired effect, and Lord Loughborough offered him his proxy, although he said he could not make a speech in defence of the peace. A proxy was sent for signature in the following letter:—

“MY DEAR LORD,

“I return your Lordship a great many thanks for your very kind and obliging letter. I shall certainly think myself much honoured in having your Lordship’s proxy. I did not think myself authorised to hope for it to-morrow night, and therefore have not sent the inclosed sooner. In fact, upon a point of such magnitude as will form the subject of to-morrow’s debate,—the peace,—I think your Lordship’s great character would hardly admit of your voting in absence. I find Lord Grenville objects also to the Russian Convention, which is to be debated on Friday. May I crave your opinion upon that? I confess I cannot bring myself to think much of some of the objections.

“With every good wish for your Lordship’s health, permit me to add that I am, with very sincere regard,

“Your obliged and faithful friend and servant,

“ELDON.

“Monday.”*

Lord Eldon spoke late in the debate, and said,—“In advising his Majesty to make peace, I would perish ^{May 13,} sooner than I would sacrifice any of the essential ^{1802.} interests of the country; but when I say this, I must not be understood to vapour in praise of the peace as if it were a very honourable one.” Again, upon the motion for approving of the Defensive Treaty, he observed:—“I am not ready to assert that the present is a glorious peace, but I have discharged my duty conscientiously in advising his Majesty to sign it, and I trust that, if candidly viewed, it will be found as good a peace as was likely to be obtained, all the circumstances under which it was made taken into consideration.” On both occasions he went over all the articles in a very minute and I must admit very tiresome manner, as if he had been discussing exceptions to the Master’s report in a Chancery suit.” But in the debate on the Russian Convention he gave an ^{Oct. 13,} able exposition of our belligerent rights with regard ^{1801.} to neutrals,—probably having the invaluable assistance of his brother, Sir William, whose judgments in the Court of Admiralty have placed them on an imperishable basis.”

He did not, for a long time after, take any part in debate, except in answering the Earl of Suffolk, who praised the present Administration at the expense of Mr. Pitt, whom he accused of detaining for a long time persons suspected of treasonable practices, without ever bringing them to trial. "The Lord Chancellor declared, with much warmth, that he would sooner suffer death upon the spot than hear the conduct of the late Administration aspersed. If it was criminal, he was as deeply criminal as they; and the only reason for pursuing a different conduct now was, that the country was under different circumstances." He concluded with a panegyric on Pitt, under whom alone, he began to think, he could hold the Great Seal with any security.*

Lord Eldon interfered little in politics from this time till the spring of the year 1804, when, through his agency, while the King was again seriously indisposed, the plan was perfected of turning out Mr. Addington and restoring Mr. Pitt to his post as Prime Minister. During this interval the Chancellor still grew in royal favour, and his Majesty was in the constant habit, on returning papers sent for the royal signature, to write him letters, showing his affection for his "friend," and his minute attention to public business. Of these, many will be found in Mr. Twiss's valuable work—but I must be content with giving two or three as a specimen:—

"Windsor, April 15th, 1802.

"The King returns the Commission for passing the Bills this day to the Lord Chancellor, having signed it. He at the same time expresses a most sincere wish that the recess may be crowned with the restoration of the Lord Chancellor's health, and strongly recommends that he will not, at first coming out, be quite so assiduous as he was in business before his confinement, to which he rather attributes the duration of the fit of the gout.

"GEORGE R."

"Queen's Palace, April 30th, 1802.

"The King returns to the Lord Chancellor the Commission, which he has signed, for giving his assent to the Bills now prepared for that purpose. At the same time the King avails himself of the opportunity to express the satisfaction he receives from the assurance of the Lord Chancellor's gout having entirely subsided. That a degree of lameness, and weakness still remains is the natural effect of the disorder, but will daily diminish; and the King therefore strongly recommends to the

Lord Chancellor the not coming next Wednesday to St. James's, but the coming here on Thursday for the Recorder's report, which will avoid the necessity of going up stairs; and Wednesday is the first day of Term, which must in itself be a day of some fatigue.

"GEORGE R."

"Weymouth, August 14th, 1802.

"Yesterday the King received the Lord Chancellor's letter. He trusts that the fatigue of sitting in this warm weather in Lincoln's Inn Hall has not proved so inconvenient as might have been expected. The King is much pleased at Dr. Ridley's being placed in the Isle of Wight. His being of the family of so celebrated a man as the Bishop that bore that name, in addition to his connection with the Lord Chancellor, very properly entitle him to that situation.

"GEORGE R."

"Windsor, Nov. 13th, 1802.

"The King returns the Commission for opening the Parliament, which he has signed. Having had the curiosity of reading the Commission, have found a mistake, the insertion of George Earl of Leicester, instead of William Earl of Dartmouth, as Lord Steward of the Household, which can easily be corrected by the Lord Chancellor ordering this change of names, though the King has signed the Commission.

"GEORGE R."

"Windsor, Feb. 27th, 1803.

"The King has, with great satisfaction, signed the Commission for passing the Bill to restrain the Bank of England from paying cash, as he is convinced of the utility of the measure, and ardently hopes it may be prolonged the next year; or, if the situation of public affairs should at that time prove more favourable, that the Bank will at least be restrained from paying cash above a certain proportion of each payment it may have to issue.

"GEORGE R."

About this time Lord Eldon, being appointed High Steward of the University of Oxford, was alarmed by news A.D. 1803. that he must return thanks in a Latin epistle, and in consternation he wrote to Sir William, "Pray, pray, give me two sentences thanking them, and assuring them that to the best of that *judgment* (the talent they are pleased to allow me) I wish to dedicate my old age with '*diligentia*,' and more of it than adorned my '*adolescentia*' to '*literis, virtuti, probitati et pietati*.'" But he was greatly relieved by an intimation from

the Duke of Portland, then Chancellor, that, in expressing his gratitude, he might make use of his mother tongue. This incident must have caused much pleasantry in his family, where, although he was regarded with a high degree of respect as well as affection, he amiably allowed himself to be treated with considerable familiarity.

Soon afterwards his eldest son played off a good-humoured hoax upon him, by writing him a metrical application for a living, supposed to come from a poor parson, who had been at school with him—but without signing his name—merely dated it, “No. 2, Charlotte Street, Pimlico.” Thus it began:—

“Hear, generous lawyer! hear my prayer,
Nor let my freedom make you stare,
In hailing you, Jack Scott!
Tho’ now upon the wool-sack placed,
With wealth, with power, with title graced,
Once nearer was our lot.

“Say, by what name the hapless bard
May best attract your kind regard,
Plain Jack?—Sir John?—or Eldon?
Give, from your ample store of giving,
A starving priest some little living,—
The world will cry out ‘Well done!’

“In vain without a patron’s aid,
I’ve pray’d and preach’d, and pray’d and pray’d,—
Applauded, but ill-fed
Such vain éclat let others share;
Alas! I cannot feed on air,—
I ask not praise, but bread.”

The Chancellor himself went to Charlotte Street, Pimlico, to inquire after the writer, but could find neither poet nor parson in those regions.¹

We must now attend to much graver matters. While Parliament was sitting, in February, 1804, deliberating upon the measures necessary to be taken for the military defence of the country, in consequence of the renewed hostilities with Napoleon, now become Emperor,—afflicting rumours were spread of a return of the King’s malady; and there can be no doubt that he was then attended by Dr. Willis, and kept under restraint. A question upon the subject being put in the House of Commons, Mr. Addington very guardedly answered that “there was not at that time any necessary

¹ The poem is said to have originated in an assertion by the Chancellor, that his son could not disguise his handwriting so as to deceive him.

suspension of such royal functions as it might be necessary for his Majesty then to discharge." Two days after, Lord Hawkesbury having held the same vague language in the House of Lords, Lord King and Lord Fitzwilliam urged that more explicit information should be given by the noble and learned Lord on the woolsack, who, as keeper of the Great Seal, was peculiarly and personally responsible. Lord Eldon: "I can assure the noble Lords who have personally alluded to me in such pointed terms, that I am fully sensible of the responsibility which attaches to me in particular. I have considered—and that deeply—the duty which is incumbent upon me at this trying crisis. I am aware that, while I am, on the one hand, constantly to keep in view what is due from me in point of delicacy to my Sovereign, I ought, on the other, never to forget that I have a duty to perform to the legislature and to the public. I have settled in my own mind what line of conduct I ought to pursue on this occasion, and that line I have pursued. I am anxious that there should be no misapprehension on this subject, and therefore I declare that my noble colleague has correctly stated the convalescence of his Majesty. Delicate as this subject is, I certainly would not have mentioned this much if I had not been compelled to it; but, as I have been compelled to it, I will state, that, *at this moment, there is no suspension of the royal functions.*" Lord Grenville complaining that the noble and learned Lord had conveyed no information to the House, Lord Eldon added: "From that attachment and duty which I owe to his Majesty, no consideration shall make me swerve so far as to go into what I conceive an unnecessary and improper explanation."

The country was now in a most perilous situation. The Mutiny Act was about to expire in a few days, and unless it were renewed, the army could not lawfully be kept on foot. A bill to renew it had passed both Houses along with several other bills, which, for the public safety, ought to receive the royal assent without delay.

Lord Eldon boldly, and I think excusably, obtained the King's signature to a commission for passing these bills, at a time when it is quite clear that, if his Majesty had been a private person, any deed or will executed by him would have been adjudged to be a nullity. The Commission being produced in the House of Lords, Lord Fitzwilliam said "he entertained doubts as to the state of his Majesty's mind—

which induced him to call upon the Lord Chancellor for further information, before the very important exercise of the prerogative which had been announced was carried into effect."

Lord Eldon. "I can assure the noble Earl and the House, that in every thing connected with so grave, important, and momentous an occasion, I have proceeded with all due delicacy, deliberation, and caution even with fear and trembling. Not satisfied with the reports of the medical attendants of his Majesty, I have thought it proper and necessary to have a personal interview with the Sovereign, when due discussion took place respecting the Bills offered for the royal assent, which assent was fully expressed. I would sooner suffer my right hand to be severed from my body, than act in such an instance upon light or superficial grounds; and I have no hesitation to aver, that the result of all which took place on the occasion amply justifies me* in announcing his Majesty's assent to the Bills specified in the Royal Commission. I know and feel with gratitude my obligations to the best of Sovereigns, and to his person I bear the warmest affection. But I can most conscientiously say, that no considerations whatever, not even those to which I have alluded, shall ever induce me to break that sacred covenant which I have made with myself not to suffer that any thing shall warp my judgment, or bear me from the rule of strict duty and rectitude. I am fully aware of the high responsibility under which I stand, and with reference to which I act on this occasion."

It will be observed that his Lordship on this occasion avoids making any assertion as to the competence of the Sovereign—does not at all disclose what the rule of rectitude and duty was which he had covenanted with himself to observe—nor exclude the possibility of his having obtained a release from the covenant,—which it is so easy to obtain when covenantor and covenantee happen to be the same individual. However, the clerk having read the commission, concluding with the words, "By the King himself—signed with his own hand," and "*Le Roy le veut*," being pronounced over each of the Bills, they all became law.

The following is an account of this transaction, written by Lord Eldon many years after; and, even assuming that he has neither coloured nor suppressed any of the circumstances of the interview, it is plain that he relied mainly upon what he considered "the competency of the King, as king, notwithstanding his indisposition," and that he would by no means have become witness to the act and deed of a private individual in such a state of mind:—

* 1 Parl. Deb. 808.

"During one of his Majesty's indispositions, and when there was a doubt whether he was sufficiently recovered to make it fit to take his royal sign-manual to a commission for passing Acts of Parliament, the time approached when, if the Mutiny Bills were not renewed and passed, the establishments of the army and navy, in the midst of war, must be broken up. It became, therefore, absolutely necessary to have his royal sign-manual to acts for continuing those establishments. The Chancellor is the minister responsible for that. I waited upon his Majesty, and carried with me the commission, and a brief abstract of the several intended acts, but in much more of detail than the previous statements made upon such occasions. I began reading that abstract, —a caution not usual when the King was well; and he said, 'My Lord, you are cautious.' I entreated his Majesty to allow *that*, under the then circumstances. 'Oh!' he said, 'you are certainly right in that; but you should be correct as well as cautious.' I said I was not conscious that I was not correct. 'No,' said he, 'you are not: for if you will look into the commission which you have brought me to sign, you will see that I there state that I have fully considered the bills proposed to receive my sign-manual to be correct; therefore, I should have *the bills* to peruse and consider.' I stated to him that he never had had the bills whilst I had been Chancellor, and that I did not know that he had *ever* had the bills. He said during a part of his reign he had always had them, until Lord Thurlow had ceased to bring them; and the expression his Majesty used was, that Lord Thurlow had said it was nonsense his giving himself the trouble to read them. I said his Majesty had satisfied me that I had used caution enough, took the sign-manual and went to the House of Lords; and when about passing the commission, Lord Fitzwilliam rose and said, 'I wish to ask whether the Chancellor declares his Majesty is equal to the act of signing the commission with full knowledge upon the subject,' or to that effect. I answered, 'Your Lordship will see the commission executed immediately.'

"I have committed this to paper, having been much abused on account of this transaction, and for the purpose of stating that it was my determination, if I thought his Majesty sufficiently well as an individual to give his assent, to take the royal sign-manual to the commission, and execute it without making observation; if, on the other hand, I did not think him so well as an individual,—inasmuch as the competency of the King, as king, was what the law authorised me to consider as belonging to him, notwithstanding his indisposition, I determined to take the royal sign-manual to the commission, and after executing it, to state to the House in what condition of his Majesty I had taken this step, and to throw myself on Parliament's consideration of my case, and my having so acted, in order, in a most perilous period, to prevent the establishments necessary for the defence, and indeed the existence, of the country from going to pieces. Many thought I acted too boldly in this proceeding; but I could not bring myself to think that I ought to countenance the notion that the King's state of mind,

considering him as an individual, was such as I in my conscience did not believe it to be; and I did think that it was my duty to expose myself to all that might happen, rather than give a false impression of the actual state of my Sovereign and Royal Master to his people.

"God grant that no future Chancellor may go through the same distressing scenes, or be exposed to the dangerous responsibility which I went through, and was exposed to, during the indispositions of my Sovereign! My own attachment to him supported me through those scenes. Such and so cordial was the love and affection his people bore to him, that a servant meaning well, and placed amidst great difficulties, would have been pardoned for much, if he had occasion for indemnity.

"When I went to take the King's sign-manual, some other ministers wanted it in their department. They sent the papers to me, instead of coming themselves to support me by their acts. I refused to tender any of them to the King."*

Lord Eldon told the following anecdote, referable to the same period:—

"In one of his Majesty George III.'s illnesses, when he was at Buckingham House, it was conceived to be my duty as Chancellor to call at that house every day. This was constantly done, to the interruption of the business of my Court to a great extent, for which the public opinion made no allowance. Upon one day, when I went to make my call of duty, Dr. Simmons, the medical attendant constantly there, represented to me the embarrassment he was exposed to, being persuaded that if his Majesty could have a walk frequently round the garden behind the house it would be of the most essential benefit to him; that if he took his walk with the doctor, or any of his attendants, he was overlooked from the windows of Grosvenor Place, and reports were circulated very contrary to the truth respecting his Majesty's mental health; that, on the other hand, his Majesty's family were afraid of accompanying him; and that he, the doctor, did not know how to act, as the walk was of vast importance to his Majesty's recovery. It was to me plain that he wished that I should offer to attend his Majesty, and walk with him in the garden. I offered to do so, if he thought it likely to be useful to the King. He then went into the next room, where the King was, and I heard him say, 'Sir, the Chancellor is come to take a walk with your Majesty, if your Majesty pleases to allow it.' 'With all my heart,' I overheard the King say, and he called for his hat and cane. We walked two or three times round Buckingham House gardens. There was at first a momentary hurry and incoherence in his Majesty's talk, but this did not endure two minutes; during the rest of the walk there was not the slightest aberration in his Majesty's conversation, and he gave me the history of every Administration in his reign. When we returned into the house, his Majesty, laying down his hat and cane, placed his head upon my shoulder, and burst into tears;

* Twiss, i. 285.

and, after recovering himself, bowed me out of the room in his usual manner. Dr. Simmons told me afterwards that this had been of infinite use towards his recovery."

The wary Chancellor, when in a communicative mood, also related that the King complained to him that a man in the employ of one of his physicians had knocked him down. "When I got up again," added the King, "I said my foot had slipped, and ascribed my fall to that: for it would not do for me to admit that the King had been knocked down by any one."

His Majesty continued in this unsatisfactory state of mind till the month of June following, some members of the Cabinet not having nerve to transact business with him; but, during this period, Lord Eldon not only obtained his assent to acts of state, such as giving the royal assent to bills that had passed both Houses of Parliament, but actually induced him to dismiss Mr. Addington, and to take back Mr. Pitt as his Prime Minister. The Sovereign being sometimes better and sometimes worse, and occasionally appearing to talk and to write rationally, and the physicians all agreeing that he was likely to recover soon,—although, if a private person in the care of a committee under the jurisdiction of the Court of Chancery, it is quite clear that he would not have been restored to liberty,—perhaps Lord Eldon did well in continuing to treat him as competent fully to exercise all the prerogatives of the crown. Not being completely disabled, as he was in 1788 and in 1810, any proposal to suspend his functions, or to supersede his authority, might have led to a public convulsion; and the smaller evil to be chosen might be to consider his legal competence as unimpaired,—there being advisers for every act that was done, responsible to Parliament and to the country.

But I can by no means offer so good a defence to another charge against Lord Eldon—that, in the intrigue by which the change of Government was effected, he betrayed his political chief. This charge, which has been several times advanced, is reiterated in the recent Life of Lord Sidmouth, by Dr. Pellow; and, I am sorry to say, I think it is completely established.

When Mr. Pitt, not pleased to see those whom he considered his own creatures assuming an independent existence, had become impatient for a return to power, and had coalesced with the two parties, in regular opposition, under Mr. Fox and Lord Grenville, the existing Government was in jeopardy,

and its majorities decreased on every division. Nevertheless, the King, highly satisfied with his Prime Minister, was resolved resolutely to stand by him; and, till the result of the debate on the 25th of April respecting the defence of the country against invasion, in which the different sections of opponents heartily concurred, neither King nor Prime Minister had any thought of a change. But, long before this, Lord Eldon, without the knowledge of the King, and without the privity of any of his colleagues, was in secret communication with Mr. Pitt, now the declared enemy of the King's Government. He might most reasonably have thought that Mr. Addington could not longer be allowed to be at the head of affairs with safety to the state—but then it would have been his duty, boldly and openly, to have said so to Mr. Addington, and it would have been his duty instantly to resign the Great Seal into his Majesty's hands. Retaining the Great Seal,—professing to serve under Mr. Addington,—and regardless of the “wishes of his Royal Master,” about which, when it suited his purpose, he could be so pathetic, he, of his own accord, through the medium of a note sent by his son, then a member of the House of Commons, opened a negotiation with Mr. Pitt for Mr. Addington's overthrow.[†] This fact is incontestably established by the following letter from Mr. Pitt to Lord Eldon:—

“York Place, Tuesday night, March 20th, 1804.

“MY DEAR LORD,

“Mr. Scott was so good as to give me your note this evening in the House of Commons.” I am very glad to accept your invitation for Saturday, as, whatever may be the result of our conversation, I think the sooner we hold it the better. The state of public affairs makes it impossible that the present suspense should last very long, and nothing can give me more satisfaction than to put you confidentially in possession of all the sentiments and opinions by which my conduct will be regulated. Believe me, my dear Lord,

“Yours, very sincerely,

“W. PITT.”

All that we know of their proceedings in March is, that after their secret meeting, thus arranged, they had “a tête-à-tête dinner.”^a It is supposed that the negotiation was inter-

[†] All possibility of a coalition between Mr. Pitt and Mr. Addington had long gone by, Mr. Pitt having declared that he would not even become head of the Treasury without first dissolving Mr. Addington's Admi-

nistration.

^a This refers to the Chancellor's eldest son, then M.P. for Boroughbridge.

^b This is proved by an entry in the Journal of Mr. Abbot (afterwards Lord Colchester),

rupted by the King being so much under the influence of his malady, that he could not be produced to hold a Council, or have any political communication made to him.^b

On the 23rd of April Mr. Fox was to lead a grand assault of the combined Opposition, which it was thought might prove fatal to the Government; and, the day before, Mr. Pitt thus wrote to the Chancellor:—

“York Place, Sunday, April 22nd, 1804.”

“MY DEAR LORD,

“Under the present peculiar circumstances, I trust your Lordship will forgive my taking the liberty of requesting you to take charge of the enclosed letter to the King. Its object is to convey to his Majesty, as a mark of respect, a previous intimation of the sentiments which I may find it necessary to avow in Parliament, and at the same time an assurance, with respect to my own personal intentions, which I might perhaps not be justified in offering, uncalled for, under any other circumstances, but which you will see my motive for not withholding at present. I certainly feel very anxious that this letter should be put into his Majesty's hands, if it can with propriety, before the discussion of to-morrow; but having no means of forming myself any sufficient judgment on that point, my wish is to refer it entirely to your Lordship's discretion, being fully persuaded that you will feel the importance of making the communication with as little delay as the nature of the case will admit. *I shall enclose my letter unsealed for your inspection, knowing that you will allow me in doing so to request that you will not communicate its contents to any one but the King himself. I am the more anxious that you should see what I have written, because I cannot think of asking you to undertake to be the bearer of a letter expressing sentiments so adverse to the Government with which you are acting, without giving you the previous opportunity of knowing in what manner those sentiments are stated.*

“Believe me, with great truth and regard,

“My dear Lord,

“Faithfully and sincerely yours,

“W. PITT.”

It would appear that Lord Eldon had sent back the letter, to have some alteration made in it,—expressing a readiness to

copied in Pellew's “Life of Lord Sidmouth,”
ii. 277.

^b The following note from the Queen to Lord Eldon seems to show that his Majesty was worse about the middle of April:—

which I wish to communicate to you, I take advantage of your promise to apply to you when under any difficulty, and beg to see you for a moment, in case you call at the Queen's House this morning, before you go to the King.

“MY LORD,

“Something having occurred last night

“Q. H., April 14th, 1804.”

“CHARLOTTE.

deliver it when the King should be in a state of mind in which he could receive it.

“York Place, Sunday night, April 22nd, 1804.

“MY DEAR LORD,

“I have no hesitation in availing myself of your permission to return into your hands my letter to the King. My wish is to leave it entirely to your discretion, whether it can with propriety be delivered before the debate to-morrow. If not, I anxiously wish that it should be known to his Majesty in due time, that it was deposited with you in order that it should be so delivered, if you should judge that it could with propriety.

“I am, my dear Lord,

“Faithfully and sincerely yours,

“W. PITT.”

Mr. Twiss,—not having seen Dr. Pellew’s statements,—after mentioning the Council held on the 23rd of April, at which the King was well enough to appear, good-naturedly observes, “The attempt to remodel the Government seems to have been immediately resumed through the agency of the Lord Chancellor, on whom alone, in a matter where the personal intervention of Mr. Addington was necessarily out of the question, the King inclined to rely.” The public now most certainly know that till the 29th of April the King did not employ the agency of Lord Eldon in communicating with Mr. Pitt, whom he then regarded as little better than a Whig, and that he eagerly hoped Mr. Addington might continue Prime Minister.

Mr. Fox’s motion was actually made on the night of the 23rd of April, and was warmly supported by Mr. Pitt, but was defeated by a majority of 52; and Mr. Addington still resolved to retain his post, the King backing him, and expressing high resentment at the contents of Mr. Pitt’s letter, which had been shown to him. But rumours—spread by whom was never known—became rife that the King was desirous of changing his Minister; and when a similar motion was repeated on the 25th, although there was no increase in the numbers of the Opposition, Mr. Addington’s supporters fell off, and his majority was reduced to 32. He thought he could stand his ground no longer, but he did not communicate to any of his colleagues his intention to resign till Sunday, the 29th of April. On that day a Cabinet was held, when he reproached the Chancellor for having been the bearer of a

letter from Mr. Pitt to the King, containing expressions so injurious to the Government with which he was acting, and for the head of which he had always expressed so much regard. All present agreed in the necessity of immediate resignation. Lord St. Vincent afterwards "expressed, as one main ground of the Government being defeated, when, with the hearty support of the King, he considered the struggle as any thing but desperate, the secret understanding between Lord Eldon and Mr. Pitt, or, as he phrased it, 'the enemy having a friend in the citadel, who opened the gates to him.'"

The resolution of the Cabinet being communicated to the King, his Majesty, who had been kept in ignorance of the previous intercourse between Mr. Pitt and Lord Eldon, and of the fact that Lord Eldon was privy to the contents of Mr. Pitt's letter, of which he had been the bearer, was made to see the absolute necessity for parting with his favourite Minister, and authorised Lord Eldon to desire Mr. Pitt to attend him at Buckingham House with the view of forming a new Administration. The following is Mr. Pitt's answer to the confidential note which he received, begging a prior personal interview with the Chancellor:—

"York Place, Sunday, April 29th, 1804.

"MY DEAR LORD,

"I am very much obliged to you for your letter, and must feel great satisfaction in learning the manner in which the assurances contained in my letter were received. I shall be at home till half-past two to-day, and afterwards from five to six, and any time before two to-morrow, if you should find occasion to call here; or if you prefer seeing me at any other hour, or at your house, you will have the goodness to let me know, and I shall be at your commands.

"I am, my dear Lord,

"Sincerely and faithfully yours,

"W. PITT."

Great difficulties arose in the negotiations which were now begun, for I believe that Mr. Pitt was sincere in his wish to introduce Mr. Fox, as well as Lord Grenville, into the Cabinet, and Mr. Fox was most odious both to the King and the Chancellor.

The Marquess of Stafford, leagued with the Opposition, had a motion standing in the House of Lords for the Monday,

* Lord Brougham on his personal knowledge, in a very able article in the Second Number of the *Law Review*.

respecting the defence of the country. At the meeting of the House, Lord Hawkesbury, as the organ of the Government, stated, that "he had reasons of the highest and most weighty importance, which induced him to request the noble Marquess to postpone his motion. These reasons, it was true, were of that delicate and peculiar nature that he could not at the present moment, consistently with his duty, enter into them farther." Lord Grenville and other lords expressing a wish for farther explanation, the Lord Chancellor quitted the woolsack and said: "Being of opinion, my Lords, that sufficient grounds exist for your Lordships to exercise your good sense and discretion upon the point under consideration, I shall say no more, being determined, for my own part, to fulfil, as long as I have a drop of blood in my veins, my duty to his Majesty and the country,—for these terms, my Lords, mean the same thing: to do my duty to his Majesty, is to do my duty to the country; and to perform my duty to the country, is to perform my duty to my Sovereign. And upon my most awful sense of what I think my duty to both, my conduct has been, is, and shall ever be regulated, and this paramount consideration now induces me to go the length of joining my noble friend in recommending the noble Marquess—as far as the opinion of an humble individual may be deserving of attention—to postpone his motion." Who could have conjectured the manner in which the noble and learned Lord had been performing his duty to his Sovereign and his country during the preceding month?

On the 2nd of May Mr. Pitt wrote a long letter to the King, which has never been published, but in which he must have fully explained his views about the formation of the new Government. This he sent, with the accompanying note, to Lord Eldon:—

"York Place, Wednesday, May 2nd, 1804,
Three quarters past one, P.M.

"MY DEAR LORD,

"I enclose a letter addressed to you, which I shall be much obliged to you if you will lay before his Majesty. I am sorry not to have been able to make it shorter, or to send it you sooner. As I think it may probably find you at the Court of Chancery, I will, at the same time that I send it, ride down to Mr. Rose's, at Palace Yard, in order that I may be easily within your reach, if any thing should arise on which you may wish to see me before you go to the Queen's House. If you should not be at the Court of Chancery, I shall order my letter to be car-

ried to your house, unless my servant should learn where it can be delivered to you sooner.

“Ever, my dear Lord,

“Yours very sincerely,

“W. PITT.”

It seems that Lord Eldon added to Mr. Pitt's communication a soothing missive from himself, and that the King, much excited, and unable to conceal his dislike of the change forced upon him, had returned an answer to Mr. Pitt, testifying even contempt for the sentiments and style of that Minister. This answer will probably never see the light; but the following letter from the King to Lord Eldon shows very strikingly how his Majesty stood affected:—

“Queen's Palace, May 5th, 1804,

“19 minutes past six, P.M.

“The King is much pleased with *his* excellent Chancellor's note: he doubts much whether Mr. Pitt will, after weighing the contents of the paper delivered this day to him by Lord Eldon, choose to have a personal interview with his Majesty; but whether he will not rather prepare another Essay, containing as many empty words and little information as the one he had before transmitted.

“His Majesty will, with great pleasure, receive the Lord Chancellor to-morrow, between ten and eleven, the time he himself has proposed.

“GEORGE R.”

Lord Eldon most earnestly denied that he exercised any influence over the King in disinclining him to the admission of Mr. Fox into the Cabinet. If he believed that such a step would be detrimental to the public service, I cannot see the harm of the Chancellor, when consulted, expressing his opinion upon it; and unless some such influence had been used, I am persuaded that his Majesty would now have assented to it, as he very readily did in 1806.

The King, of his own accord, or by persuasion, remaining inflexible, the Grenvilles would not separate themselves from Mr. Fox, and the memorable Administration was to be formed in which all the power of the State was to be centred in one individual. The new Prime Minister Elect thus addressed the King:—

“May 7th, 1804.

“Mr. Pitt humbly begs leave to acquaint your Majesty, that he finds Lord Grenville and his friends decline forming a part of any arrange-

ment in which Mr. Fox is not included. Mr. Pitt hopes to be enabled by to-morrow to submit, for your Majesty's consideration, the most material parts of such a plan of Administration as, under these circumstances, he wishes humbly to propose."

Although Mr. Pitt was now in direct communication with the King, he never moved unless in concert with the Chancellor, on whom he chiefly relied for intelligence respecting the state of the King's health. Thus he addressed him when the arrangements were complete, and only required his Majesty's sanction :—

"York Place, Tuesday, May 8th, 1804.

"MY DEAR LORD,

"I shall be much obliged to you if you can send me a single line to let me know what accounts you have from the Queen's House this morning. I shall be very desirous of seeing you in the course of the day, and will endeavour either to find you near the House of Lords between four and five, or will call on you in the evening. It will probably be desirable that I should see the King again to-morrow.

"Ever, my dear Lord,

"Sincerely yours,

"W. P."

At this meeting the Ministry was settled, the King evidently being in a state of mind in which, as a private man, he would not have been allowed to sign an ordinary contract. When it was over, he thus addressed Mr. Addington :—

"Queen's Palace, May 9th, 1804, 48 m. past six, P.M.

"The King has this instant finished a long, but most satisfactory, conversation with Mr. Pitt, who will stand forth, though Lord Grenville, Lord Spencer, and Mr. Windham have declined even treating, as Mr. Fox is excluded by the express command of the King to Mr. Pitt. This being the case, the King desires Mr. Addington will attend here at ten to-morrow morning with the Seals of Chancellor of the Exchequer. The King's friendship for Mr. Addington is too deeply graven on his heart to be in the least diminished by any change of situation: his Majesty will order the warrant to be prepared for creating Mr. Addington Earl of Banbury, Viscount Wallingford, and Baron Reading; and will order the message to be carried by Mr. York to the House of Commons for the usual annuity, having most honourably and ably filled the station of Speaker of the House of Commons. The King will settle such a pension on Mrs. Addington, whose virtue and modesty he admires, as Mr. Addington may choose to propose. * * *

"GEORGE R."

The same evening Mr. Pitt thus addressed his confidant:—

“York Place, Wednesday night, May 9th, 1804.

“MY DEAR LORD,

“I have had another interview to-day, not quite, I am sorry to say, so satisfactory as that of Monday. I do not think there was any thing positively wrong, but there was a hurry of spirits, and an excessive love of talking, which showed that either the airing of this morning, or the seeing so many persons, and conversing so much during these three days, has rather tended to disturb. The only inference I draw from this observation is, that too much caution cannot be used in still keeping exertion of all sorts, and particularly conversation, within reasonable limits. If that caution can be sufficiently adhered to, I have no doubt that every thing will go well; and there is certainly nothing in what I have observed that would, in the smallest degree, justify postponing any of the steps that are in progress towards arrangement. I am, therefore, to attend again to-morrow, for the purpose of receiving the Seals, which Mr. A. will have received notice from his Majesty to bring. If I should not meet you there, I will endeavour to see you afterwards at the House of Lords.

“I am, my dear Lord,

“Ever sincerely yours,

“W. PITT.”

The following day the change of Government formally took place, and Lord Eldon was confirmed in his office under the new chief. “The upshot of the whole intrigue is, that Mr. Pitt shoves Mr. Addington out of his place; which he takes himself, and retains his coadjutor in the business as Chancellor, *‘his ally within the besieged garrison, who opened the gate to him under the cloud of night while the rest slept.’*”^a

I add Lord Eldon’s own account of his part in the transaction, as recorded in his autobiography entitled the “Anecdote Book,” showing with what caution this work is to be perused; for he would represent that the King was quite recovered when the change took place,—he entirely suppresses his own previous intercourse with Mr. Pitt, as if the idea of this Minister’s return had originated in a spontaneous order of the King requiring an immediate interview,—and he would induce a belief, that, after Mr. Pitt was installed, it became matter of deliberation whether he himself should continue Chancellor,—whereas all mankind must now believe that this was as well understood between them, as that George III. should continue on the throne:—

"When Mr. Addington went out of office, and Mr. Pitt succeeded him, the King was just recovered from mental indisposition. He ordered me to go to Mr. Pitt with his commands for Mr. Pitt to attend him. I went to him, to Baker Street or York Place, to deliver those commands. I found him at breakfast. After some little conversation, he said, as the King was pleased to command his attendance with a view to forming a new Administration, he hoped I had not given any turn to the King's mind which could affect any proposition he might have to make to his Majesty upon that subject. I was extremely hurt by this. I assured him I had not; that I considered myself as a gentleman bringing to a gentleman a message from a king; and that I should have acted more unworthily than I believe myself capable of acting, if I had given any opinion upon what might be right to his Majesty. Mr. Pitt went with me in my carriage to Buckingham House, and, when we arrived there, he asked me if I was sure his Majesty was well enough to see him. I asked him whether he thought that I should have brought him such a message if I had any doubt upon that, and observed that it was fortunately much about the hour when the physicians called; and, it turning out that they were in the house, I said he might see them in an adjoining room. He asked me to go with him into that room. After what had passed, I said I should not do so, and that it was fit that he should judge for himself, and that I should be absent. He then left me, and, after being with the physicians a considerable time, he returned, and said he was quite satisfied with their report, and expressed his astonishment at what he had heard from them: that he had learnt, he thought from unquestionable authority, only the day before, that I never had seen the King but in the presence of the doctors or doctor who attended him on account of his mental health. He intimated that this was intelligence which had come from C——n House, and which he had now learned was utterly devoid of truth. He was soon after introduced to the King, and he remained with his Majesty a considerable time. Upon his return he said he found the King perfectly well,—that he had expressed his full consent to Lord Grenville's being a part of the new Administration, but that all his endeavours to prevail upon his Majesty to consent to Mr. Fox also being a member of it had been urged in vain in the course of a long interview and conversation. It is well known that Mr. Pitt was obliged to form an Administration without either.

"After Mr. Pitt had formed the rest of his Administration, he conversed with me as to remaining Chancellor. I told him that I must first know whether he had any reason to believe that it had been necessary to ask me whether I had given any turn to the King's mind that could affect any proposition he had to make to the King. He said, that when he left his Majesty he was convinced that nothing had passed between his Majesty and me relative to the formation of an administration, as to any person who should or should not form a part of it; and that, if I desired it, he would give me a written declaration, in any terms which would be satisfactory, that he had no reason to think that I had

in any way influenced his Majesty's mind. I told him that what he had said was enough."

But, conscious that his plotting against Mr. Addington could not be concealed from the world, and that, *primâ facie*, he was liable to the accusation of treachery, he was ever after indefatigable in repeating the assertion that he was the "King's Chancellor," and not Mr. Addington's. He harped upon his promise to accept the Great Seal, when he was made Chief Justice of the Common Pleas: he said, "Upon the duty of a subject to obey the commands of the sovereign as to accepting office, I have some notions that, I believe, are much out of fashion;" and he declared, "With respect to the Chancellorship, I was indebted for that office to the King himself, and not, as some supposed, to Mr. Addington, and as some of Mr. Addington's friends supposed." But if we give entire credit to these representations, they in no degree mitigate the censure due to his indirect proceedings; for the duties of his situation were the same, however he obtained it; and no degree of royal favour could entitle him to deceive a colleague who placed implicit confidence in his honour."

Lord Eldon must, at all events, be allowed to have been a most consummate master of political intrigue; and, always persuading himself that his objects were laudable, he gained them without any unnecessary artifices. On this occasion, although thwarting the royal wishes, he contrived to persuade the King that he lived but to obey him; and when Mr. Addington had by his means been violently torn from the King's embrace, his Majesty was more than ever charmed with the Chancellor. At the end of the first week of the new régime, thus wrote the delighted and deluded Sovereign:—

"Queen's Palace, May 18th, 1804, 5 m. pt. 10, A.M.,

"The King having signed the commission for giving his Royal Assent, returns it to his excellent Lord Chancellor, whose conduct he most thoroughly approves. His Majesty feels the difficulties he has had, both political, and personally to the King;† but the uprightness of Lord Eldon's mind, and his attachment to the King, have borne him with

* "However the debilitated energies of the country might demand that some change should be wrought suddenly, however the tottering mind of the King might require that the change should be wrought quietly, still it would have been more analogous to the ordinary principles and common conduct

of gentlemen if he had himself retired from the Ministry when he considered it too weak to serve the country efficiently, before he entered into a secret negotiation, which might end, as it did end, in its subversion."
—W. E. Surtees, p. 103.

† *Sic*.

credit and honour, and (what the King knows will not be without its due weight) with the approbation of his Sovereign, through an unpleasant labyrinth."

Commissions continued to be signed by the King for passing bills, and all other acts of state were done in his name, in the ordinary course of business; but the following two letters show that the Chancellor still acted on his distinction between his Majesty's *natural* and *political* capacity:—

The Duke of York to Lord Eldon.

"Horse Guards, May 25th, 1804.

"MY DEAR LORD,

"Having missed the pleasure of seeing your Lordship to-day as I had intended, I trust that you will excuse my troubling you with this letter, to put you in mind of the necessity of speaking as early as possible to his Majesty upon the propriety of the Queen's keeping his birthday at St. James's; as, if it is not announced in the Gazette to-morrow night, persons who mean to appear at the drawing-room will not have time to prepare their dresses. I am afraid, from what I have heard, that things were not comfortable at the Queen's house this morning, and wish that you would inquire of Sir Francis Millman and Dr. Simmonds before you go in to the King, as he seems to dwell much upon the illegality of his confinement, and is not aware of the dreadful consequences which may attend him if any unfortunate circumstance can be brought forward in Parliament.

"Believe me ever,

"My dear Lord,

"Yours most sincerely,

"FREDERICK."

Mr. Pitt to Lord Eldon.

"Bromley Hall, Saturday Evening, May 26th, 1804.

"MY DEAR LORD,

"As I was leaving town this evening I learned (in a way on which I can entirely depend) some circumstances of a conversation in one of the audiences on Thursday, which seem very alarming. The topics treated of were such as did not at all arise out of any view (right or wrong) of the *actual state* of things, but referred to plans of foreign politics, that could only be creatures of an imagination heated and disordered. This part of the discourse, however, though commenced with great eagerness, was not long dwelt on, and in the remainder there was nothing in substance wrong. This information has been given me, as you may imagine, in strict confidence; but I desired and received permission to communicate it to you, and to mention it to Dr. S. I will tell you the

name of my informant when I see you, and you will probably not find it difficult to guess him in the mean time. There is nothing very material to be known as to the particulars (as far as it strikes me), except that they related to plans, political and military, about the Netherlands. I mention thus much now, because it may enable you to learn from Dr. S. whether any thing has before passed on this point. I would have endeavoured to see you in town to-morrow morning, but I understand you will be setting out early to Windsor. On your return, either that evening or Monday morning, I shall be very anxious to see you at any hour that suits you best, and will beg you to send to Downing Street to let me know.

“Ever, my dear Lord,

“Sincerely yours,

“W. PITT.”

Even so late as the 30th of June, the King wrote a letter to the Chancellor—in which, after lamenting that business in Parliament had been protracted to so late a period of the session, he says, “But, in truth, part of this must inevitably be laid this year to the door of the King’s long, tedious, and *never-ending* confinement, which has thrown much perplexity in every quarter, but which he is resolved, with the protection of Divine Providence, carefully to avoid in future.” The determination to avoid “confinement” in future, rather seems to indicate a present necessity for it. However, his Majesty’s health soon after rallied greatly, and, till his attack in the year 1810, when he was permanently disabled from performing any of the functions of royalty, he displayed the same acuteness and vigour of intellect, as well as mental activity, which had formerly distinguished him—ever devoted to what he considered his duty—but ever retaining the prejudices of education which led to the misfortunes of his reign.

During the remainder of Mr. Pitt’s life, Lord Eldon was not very conspicuous in politics. I do not think he was at all consulted about foreign affairs, and he is not answerable for the new continental coalition against France, which ended in the capitulation of Ulm and the battle of Austerlitz. He took some part in the proceedings of the House of Lords, but these were not very important, as the Whig leaders had in a great measure seceded from Parliament. He ineffectually opposed the bill for disfranchising Aylesbury, and giving the right of election to the adjoining hundreds,—he succeeded in throwing out the bill for the abolition of the

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slave trade,^b—and he strenuously opposed all relaxation of the law of imprisonment for debt, which in its then state he contended was essentially necessary for our prosperity as a commercial nation.^c

The question of Catholic Emancipation being started, on a petition from the Roman Catholics of Ireland, he made a long speech against it—bringing forward very boldly the religious principles to which he ever after most steadily adhered. He maintained that whatever was required by toleration had already been conceded to the Roman Catholics, and that their numbers should be disregarded, the legislature looking only to the reasonableness of their demands. He argued that the Roman Catholics of Ireland were highly favoured, as they had a greater latitude in the form of their oath of allegiance than was allowed to the Protestant Dissenters of England; for the Irish Roman Catholics were required only to swear allegiance to the King and his family, whereas the form of the English oath was, to the King and his family, *being Protestants*. The British Constitution, he contended, was not based upon the principles of equal rights to all men indiscriminately, but of equal rights of all men conforming to, and complying with, the tests which that Constitution required for its security.^d By such arguments he carried with him a majority of 178 against 49.^e

Lord Eldon was employed during the summer and autumn of 1804, and the spring of 1805, in a very difficult negotiation between the King and the Prince of Wales, who had long been at open enmity with each other. The spirit in which it was begun by his Majesty may be discovered from a note to the Chancellor, in which he says,—“Undoubtedly the Prince of Wales’s making the offer of having the dear little Charlotte’s education and principles attended to, is the best earnest he can give of returning to a sense of what he owes to his father and indeed to his country, and may to a degree mollify the feelings of an injured father; but it will require some reflection before the King can answer how soon he can bring himself to receive the publisher of his letters.”^f The Chancellor prevailed upon the King to agree to an interview, but afterwards received a note from him annexing this proviso—that “no explanation or excuses should be attempted by the Prince of Wales, but that it should merely be a visit of

^b 2 Parl. Deb. 931.

^c *Ib.* 1130.

^d 4 Parl. Deb. 783.

^e *Ib.* 843.

^f 18th July, 1804.

civility, as any retrospect would oblige the King to utter truths which, instead of healing, must widen the breach.” The Prince agreed to these terms, but, before the appointed time arrived, became deeply wounded by discovering what he considered undue partiality in favour of the Princess of Wales. His Majesty had written another note to the Chancellor, containing the following expressions respecting her Royal Highness:—“In the interview he had yesterday at Kew with the Princess, her whole conduct and language gave the greatest satisfaction: She will entirely be guided by the King, who has directed her to state whatever she pleases to the Lord Chancellor as the person alone to be trusted by her in any difficult occasions that may arise. She is deserving of every attention, and therefore strongly recommended by the King to his Lord Chancellor.” The Chancellor in consequence having spoken favourably of the Princess to the Prince, his Royal Highness positively refused to meet the King, and desired that the Chancellor would carry a message from him to his Majesty to that effect. The Chancellor venturing on expostulation, the Prince replied,—“Sir, who gave you authority to advise me?” *Lord Chancellor*: “I express very sincere regret that I have offended your Royal Highness by doing so; but then, Sir, I am his Majesty’s Chancellor, and it is for me to judge what messages I ought to take to his Majesty: your Royal Highness must send some other messenger with that communication; I will not take it.” It was agreed that the Chancellor should write to the King to put off the interview on the ground of the Prince being much indisposed, as we find by the following note from his Majesty to his Chancellor:—

“Kew, Aug. 22nd, 1804, 10 m. past one, P.M.

“The King, soon after his arrival here with the Queen and his daughters, found the Dukes of Kent and Cambridge, since which the Lord Chancellor’s letter has been brought by a servant of the Prince of Wales. The King authorises the Lord Chancellor to express to the Prince of Wales his sorrow at his being unwell; that, in consequence of this, his Majesty will postpone his interview with the Prince of Wales until his return from Weymouth; and then, as was now intended, it will be in presence of his family at Kew, of which the Lord Chancellor will be empowered to give due notice to the Prince of Wales.

“GEORGE R.”

After the King’s return from Weymouth, an interview did

take place between him and the Prince, which his Majesty declared "was every way decent, as both parties avoided any subjects but those of the most trifling kind." And, after a long and tedious negotiation, the Chancellor succeeded in bringing about an arrangement, whereby the care of the Princess Charlotte was transferred to the King, although his Majesty and the Prince of Wales still continued in a state of irreconcilable hostility.^p

Lord Eldon had a difficult part to play during these altercations; but, although naturally unwilling to make

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an enemy of the Heir Apparent, he seems to have conducted himself with becoming spirit, if not always with the best tact. In Lord Malmesbury's Diary we have the following account of a fracas between him and the Prince, which must have happened soon after. Lord Eldon said to the Prince, "The Princess hoped her dignity and comfort would be attended to." *Prince*: "I am not the sort of person to let my hair grow under my wig to please my wife." *Lord Eldon* (respectfully but firmly): "Your Royal Highness condescends to become personal. I beg leave to withdraw." He accordingly bowed very low, and retired. The Prince, alarmed at this, could find no other way of extricating himself than by causing a note to be written the next day to Lord Eldon, to say that "the phrase he made use of was nothing personal, but simply a proverb—a proverbial way of saying *a man was governed by his wife*." Lord Malmesbury adds, "Very absurd of Lord Eldon, but explained by his having literally done what the Prince said."^q It was then little expected that George IV. would call Lord Eldon *his* Chancellor, and address him by the familiar and endearing sobriquet of "Old Bags."

In the midst of these distressing disputes in the Royal Family, to which it will be my painful duty ere long to return, it is refreshing to find the following letter to the Chancellor from another son of the King, who seems uniformly to have conducted himself with propriety in all the relations of public and domestic life:—

^p "The Prince declared a statement that he would not see the Chancellor to be 'a strange fabrication of the King;' while the King declared that 'fair dealing was the honourable line to combat misapprehension, chicane, and untruth;' and thus concluded his last missive on the subject: 'The Lord

Chancellor is desired to take a copy for the King of this returned paper of instructions, and prepare the paper to be transmitted to the Prince of Wales, who certainly means further chicane.'"—*Lord Malmesb.*, 10th March, 1805.

^q Vol. iv. p. 223.

The Duke of Kent to Lord Eldon.

"Saturday morning, Feb. 9th, 1805,
Kensington Palace.

"MY DEAR LORD,

"Fearful lest your Lordship should, in the multiplicity of business in which your time is so much engaged, forget what I did myself the pleasure of saying to you (relative to my attendance in Parliament) on the day when the session was opened, and from that cause, that I may at any time be absent, when my presence would have been wished for by his Majesty's Government, I now do myself the pleasure to address you these lines, in order to repeat my readiness to attend in the House of Peers, whenever your Lordship is so good as to send me the slightest direct intimation that my appearance is wished for. In doing this I am anxious your Lordship should understand, that I am actuated by that principle I have ever professed, of supporting the King's Government, and never taking any part in political disputes, for which I have the utmost abhorrence, and indeed am less fit than any other member of the House, having never given my attention to any other pursuit but that of my own profession. *The King is my object*: to stand by him at all times, my *first duty* and my *inclination*; and I think I cannot prove this more strongly, than by pledging myself, as I did when first I received my peerage *spontaneously*, always to support *his* servants, where my feeble voice could be of use. I *have* ever acted up to this profession, and I ever *will*; but it is not my system to attend Parliament otherwise; therefore, I solicit to be informed by your Lordship, *when I am* wanted, that I may not *then* be absent. Having said this, I now beg leave to add, that, as the King remains at Windsor till Tuesday the 19th instant, it is my wish to be a couple of days with him in that time, and I therefore am anxious to learn from your Lordship if I shall be wanted in the course of the next week, and *on what days*, so as not to be from here on such as you shall name.

"With a thousand apologies for this intrusion, and sentiments of the highest regard and esteem, I remain,

"My dear Lord, ever yours,

"Most faithfully and sincerely,

"EDWARD."

Towards the close of this session of Parliament, the Ministry was in a very unprosperous condition. The strength which it had gained by Mr. Addington being prevailed upon to forget his wrongs, and to accept a peerage and a seat in the Cabinet, was more than counterbalanced by the vote of the House of Commons against Lord Melville, in consequence of which that minister was dismissed from office, and his name was struck out of the Privy Council. Lord Eldon had now the prospect

of presiding in the House of Lords on the trial of his former colleague; but prior to his resignation of the Great Seal the preliminary arrangements had not been completed, and he was only called upon to give his opinion respecting the Bill for indemnifying the witnesses, when he very properly laid down, that "liability to a civil action was no sufficient reason for a refusal to answer a question," and the indemnity was confined to criminal proceedings. At last, to the great relief of the Government, Lord Eldon, under a commission from the King, pronounced the prorogation.

Before Parliament met again, death had committed ravages which deeply affected the Chancellor, both in domestic life and as a public character. He had the heavy misfortune to lose his eldest son, to whom he was tenderly attached as his first-born, and, for ten years, his only child,—who, about a year before, had been married to an amiable young lady, now in an advanced state of pregnancy,—and who, though not of brilliant talents, had ever been most exemplary in his conduct, so that Pope's lines on the son of Lord Chancellor Harcourt might well have been applied to him:—

"Who ne'er knew joy but friendship might divide,
Or gave his father grief but when he died."

I am afraid that the subject of this memoir not unfrequently pretended to deep sensibility when his heart was unmoved; but the following letter, written by him to Sir William, speaks the genuine language of nature, and touchingly shows the anguish of a bereaved parent:—

"December 24th.

"MY EVER DEAR BROTHER,

"With a broken heart I inform you that, before I had written the last paragraph of the letter I sent by this day's post, my poor, dear, dear John was no more. I am so distressed, and all around me is such a scene of distraction and misery, that I know not what to do. May God Almighty preserve you and yours from what we suffer! His mother is living in my arms out of one hysteric into another, and his poor widow is in a state which can neither be conceived nor described. For myself, I am your ever ever affectionate, but ever ever unhappy brother,

"ELDON."

Sir William hurried to the house of mourning, and wrote to his daughter an affecting account of what he beheld: "Her

(Lady Eldon's) grief is still as wild and passionate as ever, without the least abatement. She takes hardly any sustenance, and is falling away in such a degree, that I should not be surprised at any consequences that were to follow from the decay of her strength. It is impossible to describe the degree in which my brother is worn down by the constant attentions he is obliged to pay to her. She will hardly suffer him to be out of the room, and, during the whole time he is there, he is a witness to the indulgence of such sorrow as it is quite impossible for any man to stand. He is much affected in his health."

Lord Eldon met with much sympathy on this melancholy occasion, and he received letters of condolence from Mr. Wilberforce, Lord Ellenborough, and many other friends. Even Mr. Pitt, although struck by the illness which proved fatal to him, and still more depressed by the fatal result of his measures for humbling the power of Napoleon, thus wrote to Sir William Scott:—

"Bath, Dec. 27th, 1805.

"MY DEAR SIR,

"It is with great regret I break in upon you in the moment of a calamity in which you so nearly participate; but I feel too deeply for the loss which the Chancellor and all his family have sustained, not to be anxious to inquire how he and they support themselves under this heavy affliction. I know how vain every topic of consolation must be in the first impression of so much just sorrow, but I trust he will gradually find the relief, which even the sympathy and affection of his friends cannot administer, in the resignation and fortitude of his own mind. You will, I am sure, pardon my giving you this trouble, and will oblige me much by any account you can give me. I much wish he may be induced to try for a time the benefit of change of scene, and of a place of quiet.

"Believe me, my dear Sir,

"With great truth and regard,

"Most faithfully and sincerely yours,

"W. PITT."

Lord Eldon was necessarily recalled to the discharge of his public duties by the very embarrassed state of public affairs. Parliament was to meet on the 21st of Janu- A.D. 1806.
ary, and when that day approached, Mr. Pitt, broken-hearted, having returned from Bath to his house at Putney, was known to be dying. In the midst of the deepest gloom, the session was opened by a speech which Lord Eldon delivered to the two

Houses as Lord Commissioner, and a generous forbearance was exhibited by the Opposition. On the 23rd of January the proud spirit of the Premier took its flight to another sphere of existence; and there really seems to have been more solicitude to do honour to his memory by voting a public funeral for his remains, and money to pay his debts, than to struggle for the power which was in abeyance. All parties were now disposed to look upon him as a noble-hearted Englishman, who had ever been the champion of his country; and while the partialities of many dwelt upon his efforts against French conquest and French principles, others remembered his early struggle in the cause of reform, and, justly asserting that he had always been true to the principles of free trade, and that if not thwarted by bigotry he would have united Ireland to England by the indissoluble bond of affection, they palliated his encroachments on the Constitution, and the persecution of his old associates, by the pressure to which he was subjected, and the unknown dangers arising out of the great revolutionary movement then in operation over the world.

But a ministry must be speedily formed. I do not find that during this crisis Lord Eldon engaged in any intrigue to patch up a Tory Government, or to exclude Mr. Fox. Either unnerved by domestic sorrow, or submitting quietly to what appeared to be an inevitable misfortune, he seems passively to have looked on while Mr. Fox and Lord Grenville were forming their arrangements, and to have made no attempt to retain the Great Seal.

On the 3rd of February he announced his resignation, and said that he should not sit in the Court of Chancery after the following day. In rising to quit the chair on the 4th, he thus, in a tremulous voice and with real emotion, addressed the Bar:—

“Before I take leave of this Court, I wish to address a few words to you, gentlemen, expressive of the feelings I entertain for the respectful attention I have on all occasions experienced from you. I had doubted whether the more dignified manner of parting would not be simply to make my bow to you, and retire; but observing that I have been represented, yesterday and the day before, to have addressed you on the subject, I shall not resist the impulse I feel to say a few words. I quit the office I hold without one painful reflection. Called to it by authority of those whom it was my duty to obey, I have executed it, not well, but to the extent of my humble abilities, and the time which I have been able to devote to it; and I enjoy the grateful feeling that there is no suitor of this Court who can say I have not executed it con-

scientifically. There is yet, however, one painful emotion by which I am assailed—it is the taking leave of you. In retiring into private life, I am upheld by the hope that I shall carry with me the continued esteem of a profession for which I feel an attachment that will descend with me to the grave. For the great attention, respect, and kindness I with, always received from you, accept, gentlemen, my sincerest thanks, accompanied by my best wishes for your long-continued health and happiness, and uninterrupted prosperity."

In the evening of the same day he thus wrote to his wife, showing the high self-complacency which stuck by him to his last hour :

"DEAR BESSY,

"I took leave of the Court of Chancery this morning : I don't mean to go to the Woolsack in the House of Lords to-morrow, or any more. I am to resign the Seal at two o'clock on Friday." "I cannot describe my own situation in point of health and feeling otherwise than as excellent,—as that which a man has a right to possess, who, having done his duty to God, his King, and to every individual upon earth, according to the best of his judgment, has a right to support himself under heavy afflictions by the consciousness of proud and dignified integrity."

The transfer of the Great Seal took place at the Queen's house on the 7th of February. In a narrative which he wrote at the time, he merely said, "When his Majesty took the Seal from my hands, his Majesty's demeanour and assurances were in all respects satisfactory to me." But he afterwards stated, in his old age,—“The King appeared for a few moments to occupy himself with other things: looking up suddenly, he exclaimed, ‘Lay them down on the sofa: for I cannot and I will not take them from you. Yet I admit you can't stay when all the rest have run away.’”

The ex-Chancellor certainly carried with him the respect of the Bar and of the public. For five years he had presided in the Court of Chancery with consummate ability. In spite of the doubts and delays by which his usefulness was so much marred, the business of the Court had been transacted very satisfactorily, and there was yet no such accumulation of arrears as called forth the complaints which disturbed his second Chancellorship. The appeals in the House of Lords he had with hardly any assistance decided in a manner which pleased the English—and the Scotch still more.

He gained popularity by puffing himself (which he was never slow to do upon any subject) respecting the reform he

introduced in considering the Recorder's Report of prisoners capitally convicted at the Old Bailey. "The first time I attended," he said, "I was exceedingly shocked at the careless manner in which the business was conducted. We were called upon to divide on sentences affecting no less than the *lives* of men, and yet there was nothing before us to enable us to judge whether there had or had not been any extraordinary circumstances; it was merely a recapitulation of the judge's opinion and the sentence. I resolved that I never would attend another report without having read and duly considered the whole of the evidence of each case; and I never did. It was a considerable labour in addition to my other duties, but it is a comfort to reflect that I did so, and that in consequence I saved the lives of several individuals." We know on undoubted authority that he did take great pains with this department of his duty, but he surely very unjustly disparages his predecessors and his colleagues, and there is no reason to suppose that such men as Lord Kenyon and Lord Ellenborough could be so grossly negligent and reckless as he describes them.

Erskine was now Chancellor. "All the Talents" were in their palmy state, and the old Tory party, which was soon to recover power and to retain it many years, seemed extinguished. Lord Eldon did not by any means relish his position. He had a pension of 4000*l.* a year, under the recent Act of Parliament,* but this was a poor consolation to him for the loss of the profits of the Great Seal, and he thought to himself that if he had continued at the Bar he should have been in possession of a much larger income.

CHAPTER CXCI.

CONTINUATION OF THE LIFE OF LORD ELDON TILL HE WAS RESTORED TO THE WOOLSACK.

I COULD have wished to relate that our ex-Chancellor now eagerly resumed his classical studies, and tried to discover what had been going on during the last

* A.D. 1806.

thirty years in the literary world,—but he spent his time in poring over the newspapers, and gossiping with attorneys, in whose society he ever took great delight. “The form of the ex-Chancellor was then often seen to haunt the Inns of Court, the scenes of his departed glory; and often would he drop in to the chambers of his old friends, and, in the enjoyment of his pleasing conversation, make others as idle as himself.” He says that he now again read over “Coke upon Littleton;” but he certainly did nothing more, while he remained out of office, to enlarge his mind or to improve his taste. He found no delight in leisure, even for a little month, and he was more and more eager for his return to office. At first he was sanguine,—from the King’s known dislike to Mr. Fox; but he was dreadfully alarmed by reports, which from time to time reached him, that the new Foreign Secretary was rapidly doing away with the prejudices against him in the royal bosom, and was likely to become a favourite at Court.

He did not speak often in Parliament from the Opposition bench; but he censured the appointment of Lord Ellenborough to a seat in the Cabinet while at the head of the criminal law. With mildness of manner and apparent candour, “that such an arrangement was not illegal he admitted: and he would not say that it was unconstitutional; but he thought it inexpedient, because it tended to excite a suspicion of political partiality in the administration of justice. It was observable that Lord Mansfield, whose case formed the solitary precedent, had become extremely unpopular after his entrance into the councils of the Government; and the jealousy which then arose in the minds of the people, however ill-founded, had been sufficient to weaken the confidence which ought ever to be reposed in a judge. Lord Eldon declared himself persuaded that a tenure of a seat in the Cabinet would not in the slightest degree affect the purity of Lord Ellenborough’s judicial administration; but he thought, that, for the satisfaction of the country at large, it was undesirable to have the Lord Chief Justice in such a position; and he trusted that, on reflection, the Learned Lord himself would not wish to retain it. It would not be proper that the same individual should act, first as a minister to institute prosecutions for treason and sedition, and afterwards as the Judge to preside at the trials. A Lord Chief Justice, it was true, might, in such cases, absent himself from the Council, or delegate the trial at law to some other judge; but in either

of these cases he abandoned some duty appertaining to one of his two appointments. There might occur prosecutions, not for offences affecting the general foundations of government, but for mere libels on the party in office; and the person accused, in any such case, would never be satisfied of the fairness of his trial, if the presiding judge were a member of the Cabinet directing the prosecution. Lord Eldon added, that he had himself been connected with Lord Ellenborough, for nearly thirty years, by the sincerest friendship: and even if he could suppose that this personal regard could be at all weakened by any thing which he had then said, still he felt himself so strongly impelled by a sense of duty, that he could not refrain from expressing his opinion. He concluded by a suggestion that the best way of disposing of the matter would be to leave it to the consideration of Lord Ellenborough himself; and he was convinced that his noble friend would arrive at that result which would be satisfactory to the feelings of the public as well as to his own."^u

During the trial of Lord Melville's impeachment, Lord Eldon did not take an active part in examining the witnesses, or arguing questions of evidence, Lord Chancellor Erskine here having a decided advantage over him. When it came to the verdict, he said *NOT GUILTY* on all the charges, although on one or two of them he was in a narrow majority.

The session having passed off prosperously for the new Government, the hopes of the Opposition were revived by the death of Mr. Fox; but the Whigs all rallied under Lord Grenville, and it seemed as if the King himself had gone over to them, for he consented to a dissolution of Parliament for the purpose of giving them strength. Although the existing House of Commons had been very quiescent, it was known to be of good Tory materials, and ready on the first opportunity to stand up for the restoration of Tory rule. The Tory leaders had not dreamed that the King, who had so reluctantly parted with them, would consent to Parliament being prematurely disbanded. It was only four years old; and since the passing of the Septennial Act, nearly a century ago, there had not been an instance of a dissolution till the Parliament had completed its sixth session,—with the exception of the precedent set by Mr. Pitt in 1784, considered necessary from the difference between the two Houses, and the rebellion of the House of Commons against the King and the people.

^u 6 Parl. Deb. 263.

In the whole history of Lord Eldon's life there is nothing more extraordinary than the effect which the news of this measure produced upon him. Not only did he suspect that Canning and many Pittites were going over, but he thought and wrote most unkindly, and I must say most disrespectfully and irreverently, of his "dear old master, George III.," who, while favouring him, had been, and again became, the God of his idolatry. Thus he pours out his indignation to his brother, Sir William Scott:—

"I am not in the least surprised at what you say about C. I have for some time thought that much less than a dissolution would serve him as a cause of separation, and I suspect that Lord G. has known him so well as by flattering his vanity on the one hand, by making him the person of consequence to be talked with, and alarming that vanity on the other, by disclaiming intercourse through any body with the Pittites as a body, to make him the instrument of shaking, among the Pittites, that mutual confidence which was essential to give them weight, and thus to keep them in the state of a rope of sand till a dissolution, when he won't care one fig for them all put together. The King's conduct does not astonish me, though I think it has destroyed him. His language to me led me to hope better things; and, in charity, I would suppose from it, that his heart does not go with his act. But his years, his want of sight, the domestic falsehood and treachery which surround him, and some feeling (just enough, I think) of resentment at our having deserted him on Mr. Pitt's death, *and, as to myself particularly, the uneasiness which, in his mind, the presence of a person who attended him in two fits of insanity excites*, have conspired to make him do an act unjust to himself. I consider it as a fatal and final blow to the hopes of many, who have every good wish of mine. As to myself personally, looking at matters on all sides, I think the Chancellorship would never revert to me, even if things had taken another turn, and it is not on my own account I lament the turn they have taken. As to any other office, I could have no motive, on my own account, to wish for any, and, with a disposition to co-operate for the good of others who have public objects, I have only to pray God to continue to me, if it be His pleasure, the other sources of happiness of a private kind. I have had a letter from Lord Redesdale, also very dismal, and, in its contents about the Prince, like yours. The Duke of Cumberland sent me a military express to inform me of the dissolution.

"Ever yours affectionately,

"ELDON."

Can any one who reads this letter doubt that, if the Whig Government had stood, George III. steadily supporting it, Lord Eldon would, ere long, have personally assailed him, and,

if his "dear old master" had been reduced to the same situation in which he was in 1801 and 1804, would have denied his capacity to govern?

The ex-Chancellor had about the same time, probably in more guarded language, unburdened his mind in a letter to the Duke of Portland. Fortunately, his Grace's answer is preserved:—

"Bulstrode, Nov. 24th, 1806.

"I will add little to the length of this letter, except to contradict the rumours you have heard of any intimation having been made to me, either directly or indirectly, of H. M.'s sentiments upon any political subject whatever. H. M. was pleased to come to this place on the Saturday before the dissolution of Parliament, accompanied only by the Queen and Princesses, and the Dukes of York and Cambridge; but not a syllable, or even allusion, to the present state of things, or to the event then impending, (with which, however, I have some reason to think he was at that time unacquainted,) except, if it can bear such an interpretation, his repeatedly, for three or four times, expressing his regret at having a good memory, and lamenting it as a serious misfortune. Believe me, my dearest Lord, nothing can relieve my mind so much as unburthening it to you in the present crisis. The friendship I have for so many years experienced for you, teaches me to believe that I cannot use any argument so likely to induce you to gratify my wishes. I therefore conclude, with the most cordial assurances of regard and attachment.

"Your Lordship's most faithfully ever,

"PORTLAND."

The elections went strongly in favour of the Whigs, and Lord Eldon really was in despair. Yet he judged it good policy that he should not appear dejected, and that active preparations should be made for opposing the Government. In a long letter to Lord Melville, he says:—

"I had also, for twelve months past, observed, not without grief, that all my exhortations to plan, to union, to system, had been thrown away upon every body here. If they had not, I think I should at this moment have seen a very different state of things. I certainly did express strongly, at the Priory, my fears that the opinion expressed by your Lordship (to which so much respect would be paid because it was due to it) upon this measure, would greatly augment the panic that existed, whilst it did not appear to me that it could do any good. Upon the matter of fact (what this dissolution does prove as to the mind or intention of *any body concerned in it*) we may live to converse together;* but whatever my belief of the actual mind and intention of

* A very cautious but significant allusion to the King.

any person concerned in it may be, though you know I am no politician, I should be deservedly thought an idiot, if I did not feel with what universality it will be deemed to import that mind and intention which you think it imports, and how impossible it is to give weight, generally, to any grounds of belief to the contrary, unless they are furnished by acts or declarations for which it cannot be reasonable to look. That mischief, great mischief, has been done, let the truth of the case be what it may be, cannot be doubted. My poor opinion is, that it will be augmented, and unnecessarily, if we act upon the supposition that it will not bear dispute what the truth of the case is."⁷

But Lord Eldon placed all his hopes upon a scheme which had been actively going on for some months, but which, being confined to a small junto, he did not venture to state or hint at to Lord Melville, who probably would have strongly condemned it.

The Prince of Wales having laid certain charges, of a very serious nature, touching the honour of his wife, before the King,⁸ four members of the Cabinet, Lord Chancellor Erskine, Earl Spencer, and the Lords Grenville and Ellenborough, were appointed commissioners to inquire into the charges, with Sir Samuel Romilly, the Solicitor-General, as their secretary. They conducted the proceeding with a sincere anxiety to arrive at the truth, but not very regularly or discreetly,—for they gave the Princess no notice of what was alleged against her, and she had no opportunity to contradict or to explain the evidence, which placed her conduct in an equivocal point of view. It likewise turned out that, in taking down the examination of the witnesses, they only stated the substance of what each was supposed to have sworn—not giving the questions as well as the answers—so that the exact effect of their testimony could not be accurately judged of.⁹

The unhappy lady, when she heard from rumour of what was going on against her, applied for advice and assistance to the ex-Chancellor, who was delighted to become her patron;

⁷ He afterwards goes on to blame, very severely, Mr. Pitt's attempts to bring in Mr. Fox. Lord Melville wrote him back a very manly answer, in which he justifies what Mr. Pitt did; and having shown that no evil could have arisen if the King had taken his advice, thus concludes:—"Compare that state of the King and country with the state of both now, and then judge of the wisdom and rectitude of Mr. Pitt's views!"—*January*,

1807.

⁸ This investigation originated in the advice of Lord Thurlow. See Sir Samuel Romilly's *Memoirs*, ii. 140, 142, 141.—Lord Grenville thought that the alleged birth of a child "would render it impossible to avoid making the matter public, and the subject of a parliamentary proceeding."

⁹ See Sir S. Romilly's *Memoirs*, iii. 92.

for he thought that he might thereby please the King, who he believed secretly favoured her, although his Majesty had sanctioned this investigation;—he was pleased to thwart the Prince, whom he regarded as a political enemy;—he expected that an opportunity might arise for censuring the conduct of the Ministers, and bringing unpopularity upon them for their attack upon the persecuted Princess;—and let us charitably suppose, that, convinced of her innocence, he had something of a disinterested desire to see her righted.^b Accordingly, a very intimate intercourse, both by visits and letters, was established between him and her Royal Highness. “Lord Eldon at that period would often dine with her at Blackheath; and to him she used to assign the seat of honour on her right hand. In Germany it had not been the custom for gentlemen to help the ladies near them to wine; but each sex fill their own glasses at their option. The Princess, however, as Lord Eldon related, used to reverse in some sort our old English fashion in his favour; for she would quietly fill his glass herself,—and so frequently, that he seldom left her house without feeling that he had exceeded the limits of discretion. Those indeed who recollect the proverb, ‘that though one man may take a horse to the well, ten men cannot make him drink,’ will moderate their commiseration for the hard lot of the ex-Chancellor.”^c

The following are two of the letters which she addressed to him, before she heard of the result of the “Delicate Investigation.”

“Blackheath, June 24th, 1806.

“MY DEAR SIR,

“I must mention to your Lordship that the two letters from Lady Douglas to Mrs. Fitz Gerald, which your Lordship saw on the occasion, never to enter again to my house, (which would have been very great proofs against Lady Douglas, and show her true character,) have been taken out of my drawers, in which all the papers were, and upon each was written what were the contents of each different parcel. Yesterday, to my greatest astonishment, I missed that parcel. Every search in the world has been made, in case my bad memory had led me to put it in some other place; but I have not succeeded to find them, and am led to believe, that the same person, who was able to take a hundred

^b It requires a considerable effort to make us ascribe to him much of good motive in his treatment of Caroline of Brunswick. Although at this time he maintained that she was the chastest and most injured of her sex, he afterwards said, in confidence to Lord

Grey, in reference to the charge now brought against her,—“My opinion is, and *always was*, that though she was not with child, *she supposed herself to be with child.*”—*Romilly's Memoirs*, iii. 104.

^c Surtees, p. 118.

pound note from Carlton House, could easily take this parcel, which was so great a proof *against* Lady Douglas's character. No step has been taken by me to find out if he is the guilty one. In case you wish to see me, I shall be very happy to receive you to-morrow, or on Thursday morning, at any hour, and I beg to entreat of your Lordship, to take it well into consideration, that it is quite impossible for me to remain any longer silent upon this subject, in which my honour is so much implicated, and which is so much the talk of the public at this moment, that I hope your Lordship will take it in the most serious light, and to take some steps which will lead to any conclusion, whatever it may be. My health, as well as my spirits, suffer too much to be left any longer in suspense; and you, who have always shown yourself as a sincere friend to me, will feel as I do upon this subject. I remain for ever, with the truest sentiments of high regard, esteem, and friendship,

"Your Lordship's sincere friend."

"Blackheath, July 25th, 1806.

"The Princess of Wales entreats and desires Lord Eldon to go as to-morrow to Windsor, and ask an audience of his Majesty, and deliver to his Majesty the enclosed letter. The Princess is under very great apprehension, that the report made from the examination, to his Majesty, has not been fairly and literally delivered to his Majesty. She wishes for that reason that Lord Eldon should verbally explain, and open his eyes on the unjust and unloyal proceedings of his Ministers. The Princess cannot help thinking that his Majesty has been led into error, otherwise he would have by this time shown his usual generosity and justice, by declaring the Princess's innocence. The Princess is quite resigned to her cruel fate, from the period that her honour was in the hands of a pack of ruffians, and who are only devoted, and slaves, to her most inveterate enemy. The Princess hopes that on Sunday Lord Eldon will be able to give her a satisfactory account of the reception he received of his Majesty, and the Princess has been now for seven weeks in the most dreadful and tormenting suspense. The Princess will be very much obliged if Lord Eldon will do her the favour of losing no time for setting off for Windsor and of seeing the King. The Princess sends to his Lordship the letter to the King for his perusal. If he should wish to alter any part in the letter, the Princess desires that Lord Eldon would mark it down and send it back; the Princess would in less than an hour send it to him again.

"The Princess remains, with the highest esteem and regard, his Lordship's most sincere friend,

"C. P."

The Report of the Commissioners to the King, dated the 14th of July, 1806, acquitted the Princess of the charge that she had given birth to a child long after her separation from

her husband, but stated "that evidence had been laid before them of other particulars respecting the conduct of her Royal Highness, such as must, especially considering her exalted rank and station, necessarily give occasion to very unfavourable interpretations."^d On the 11th of August a copy of this Report was sent to her by Lord Chancellor Erskine, with an intimation that "she was to be admonished by his Majesty to be more circumspect in her conduct." Under Lord Eldon's advice, she several times wrote to the King, complaining of the manner in which the proceeding against her had been conducted by his Ministers; solemnly denying the levities which the Report imputed to her, and praying "that she might again be admitted into the presence of her uncle—her father-in-law and her Sovereign—who had ever hitherto proved her friend and protector."

The King, melted by these expressions, and still exasperated against his son, was supposed to be favourably inclined towards her, although, as her conduct had been made an affair of state, he could not now, against the advice of his Ministers, receive her at Court as if free from blame.

Lord Eldon was prudent enough not to commit his sentiments on this subject to writing. The two following are the only other letters to him from the Princess which have been allowed to see the light:—

"Blackheath, Oct. 13th, 1806.

"The Princess of Wales, with the most grateful sense, is most sincerely obliged to Lord Eldon for his kind inquiry through Lady Sheffield.

"Her body as well as her mind have naturally much suffered from the last melancholy catastrophe, having lost in so short a time, and so unexpectedly, a most kind and affectionate brother and a sincere friend. The afflictions which Providence has sent so recently to her are very severe trials of patience and resignation, and nothing but strong feelings of religion and piety could with any sort of fortitude carry the Princess's dejected mind through this. She puts her only trust in Providence, which has so kindly protected her in various ways since she is in this kingdom.

^d Sir S. Romilly says,—*"The result of this examination was such as left a perfect conviction on my mind, and I believe on the minds of the four Lords, that the boy in question is the son of Sophia Austin; that he was born in Brownlow Street Hospital, on the 11th of July, 1802, and was taken by the Princess into her house on the 15th of November in the same year."*—*Mem.*, ii. 144. Yet, although there is no pretence for the notion that "Billy Austin" was the son of the Princess of Wales, or that she was ever in a state of pregnancy after the birth of the Princess Charlotte, it is now ascertained that he was of totally different parentage, and born in Germany.

"The Princess also has the pleasure to inform his Lordship that the Queen has twice made inquiry, by Lady Ilchester, through Lady Sheffield, about the Princess's bodily and mental state. The Duchess of York, through her lady to Lady Sheffield, and the Duke of Cambridge in the same way, made their inquiries. The Duke of Kent wrote himself to the Princess, which of course she answered herself. The Duke of Cumberland, who has twice been with the Princess after the melancholy event took place, desired her to announce, herself, to his Majesty the unexpected event of the death of the Prince Hereditary of Brunswick. She followed his advice, and the letter was sent through Lady Sheffield to Colonel Taylor. The answer was kind from his Majesty, and full of feeling of interest for the severe loss she sustained in her brother. Lady Sheffield's health did not allow her to stay longer with the Princess. Mrs. Vernon, one of her ladies, is now at Montague House, in case his Lordship wished to write by her to the Princess.

"The Princess trusts that soon she will have comfortable and pleasing tidings to relate to Lord Eldon. She has, till that moment, nothing further to inform him of, than to repeat her sentiments of high regard, esteem, and gratitude, with which she remains for ever his Lordship's most sincere friend,

"C. P."

"Blackheath, Nov. 16th, 1806.

"The Princess of Wales makes her apology to Lord Eldon for her unfortunate mistake. The letter which was intended for his Lordship is gone to Altona to the Duke of Brunswick. The contents of the letter consisted in desiring his Lordship to agree to the request of the Princess to discharge the three traducers and slanderers of her honour from her household, of which some are even yet under the Princess's own roof at this present moment. The Princess, by not having yet discharged them, is liable to receive great affronts from them, which Mr. Bidgood has tried in all means by hurting the Princess's feelings. The pew at Church, which is only appropriated for the Princess's servants, is close to her own at Greenwich, where she constantly goes, if not illness prevents her. Mr. Bidgood shows himself there every time, and even had not the proper attention of appearing lately in mourning, which all the servants of the Princess are accustomed to be as long as their Royal Mistress is in deep mourning.

"The Princess begs Lord Eldon to take all these matters into consideration. Mr. Percival, who is also informed on the same subject, is perhaps more able to explain the whole circumstance to his Lordship than the Princess can. The Princess flatters herself that his Lordship will do her the honour and pleasure to come on Tuesday at six o'clock to dinner to meet Sir William Scott."*

* Sir William became such a favourite object of a good deal of railery among his friends; and after the Queen's trial, being with her Royal Highness as to be the sub-

Lord Eldon and Mr. Perceval then set their wits to work, and (as it was supposed, with the assistance of Mr. Plumer, afterwards Solicitor-General, Vice-Chancellor, and Master of the Rolls) composed and printed "THE BOOK," long so mysterious in its origin, its nature, and its history. This was to be used not only as an instrument for the restoration of the Princess, but for the ruin of the Ministry.¹

Her Royal Highness now intimated to his Majesty, that "unless she were relieved from further suspense, her case must be immediately laid before the public." This threat so far operated, that in the end of January, 1807, Lord Chancellor Erskine transmitted a message to her, by order of the King, acquainting her that "his Majesty was advised it was no longer necessary for him to decline receiving her into the royal presence." The Prince of Wales then interposed; and Lord Chancellor Erskine, from ancient attachment, taking his part, and believing that, although there was no proof of the Princess having broken her marriage vow, her levity of manner should be seriously discouraged, the King consented to her restoration being deferred. This was good news for Lord Eldon and Mr. Perceval, and by their advice she wrote again to the King, "that unless justice were speedily done to her, she should appeal to the public, and make a disclosure to all the world of the infamous charges against her, and the irrefragable evidence by which they were repelled." There was thus every prospect of "The Book" being published; and

questioned respecting the footing on which they had lived together, he would give no other answer than "Non mi ricordo."—Though the most moral of men, he would indulge in a little free badinage,—inasmuch that, being asked by a Duchess "what would happen if he, the supreme Ecclesiastical Judge, should himself be guilty of a peccadillo?" he replied, "I have been considering that ever since I became acquainted with your Grace."

¹ Sir S. Romilly, under date 27th Nov. 1806, says of this production,—"Instead of the dignified defence of an injured and calumniated Princess, it is a long, elaborate, and artificial pleading of an advocate; and no person, as much accustomed as I am to Plumer's manner, can doubt that he is the author of it. As a pleading, however, it is conducted with great art and ability. It is manifestly intended to be at some time or

other published, and is likely, when published, to make a strong impression in favour of the Princess." He adds in a note, that he had afterwards ascertained that, although Plumer had altered and corrected it, it was drawn up by Perceval, and printed under his superintendence. He does not specify the hand which Lord Eldon had in it,—being always rather chary of the reputation of the Chief of his Court. But there can be no reasonable doubt that Lord Eldon was privy to the whole transaction. Mr. Surtees says that "Mr. Perceval had the sanction of Lord Eldon, of the Duke of Cumberland, then in confidential communication with his Majesty and Lord Eldon, and of (it may hence be fairly inferred) a still more exalted personage" (P. 117, 118.) See 24 Parl. Deb. 1132, 1144; Edinburgh Review, No. cxxxv. 29, 32.

although it might have brought much discredit on the Royal Family, and must have been injurious to the morals of the people, it probably would have answered the purpose of the authors, and would have caused a rupture between the King and his Ministers.

The return of the Tory Opposition to power was effected, however—not, as had been projected, by a cry of “The injustice of the Delicate Investigation,” but by the cry of “The Church is in danger.”—We must now attend to the proceedings of the new Parliament.

The session opened very auspiciously for the Whig Government. After a little grumbling at the dissolution, the Address being carried in both Houses without a division, and thanks being voted for the battle of Maida, Lord Grenville introduced his Bill to abolish the Slave Trade. This was strongly opposed by Lord Eldon, who cavilled at its title,^s and contended that, admitting the trade to be contrary to justice and humanity, the circumstances, the mode, and the time of its abolition were proper matters of consideration. He said he did not believe the measure now proposed would diminish the transport of negroes, or that a single individual would be preserved by it; at the same time that it would be utterly destructive of the British interests involved in that commerce. He tauntingly asked, “was it right, because there was a change of men, and of public measures in consequence, that the interests of those who petitioned against the bill should be disregarded, and what was before considered fit matter of inquiry should now be rejected as immaterial and inapplicable?”^a The bill nevertheless passed, as it would have passed years before if Mr. Pitt had been sincere in his support of it;—and the next time that a Liberal Government was established in England, slavery was abolished in all the dominions under the British crown.

Lord Eldon did not take a prominent part in Parliament in resisting any other measure of the present administration, but he was very actively and effectively employed in bringing about the restoration of his own party to power. His principal associate at this time, and for many years after, was his Royal Highness the Duke of Cumberland, a prince of very considerable talents, as well as energy, and a very zealous and steady friend of the Tories. His Royal Highness had unbounded influence over his father, and was ready to take

^s 8 Parl. Deb. 257.

^a Ib. 614.

advantage of any incident which could be used to remove from office those whose principles he so much disliked.

While the Tory Opposition were very low, placing their sole reliance on their advocacy of the cause of the Princess of Wales, their spirits were suddenly revived by a notice in the House of Commons, by Lord Howick, of a motion "for leave to bring in a bill to allow Roman Catholics to hold commissions as field-officers in the army." Notwithstanding the success of the Government at the late general election, considerable distrust had been shown of them from the suspicion that they favoured Catholic Emancipation, and a strong anti-popery spirit was known to exist in the country. Under such circumstances it was, I fear, an instance of gross imprudence to bring forward a measure which, though laudable in itself, was not very important, nor very pressing, and was sure to give the King and all the enemies of the Government a formidable advantage. A resolution was taken by the Tory leaders that it should be strenuously opposed, and that an alarm should be given of danger to the Established Church. Accordingly, on the day on which it was introduced and explained in an admirable speech by Lord Howick, Mr. Perceval declared that "he felt himself bound to oppose its principle, and to call the attention of the House and of the public to one of the most important and most dangerous measures that had ever been submitted to the judgment of the legislature." He then proceeded, in a very inflammatory harangue, to address himself with much dexterity to the religious prejudices of the nation, and foretold, that "if the measure were agreed to, all our most valued institutions must be swept away."

A panic was spread over the country; and the King, roused by the Duke of Cumberland, sincerely believed that he was now called upon to give his assent to a dangerous measure, contrary to his coronation oath. With the sagacity and decision which ever distinguished him on such occasions, he perceived that he unexpectedly had an opportunity of getting rid of Ministers who had been forced upon him, and whom he still regarded with aversion. He therefore not only insisted upon the Bill being dropped, but, when this concession was made to him, he demanded a written engagement from all the members of the Cabinet, that they never in future would advise him to make any further concession to his Roman Catholic subjects. They unanimously refusing to give such a pledge, he dismissed

them all from their offices. There is no proof that Lord Eldon suggested this most unconstitutional proceeding, although he had the opportunity of doing so in an interview which he then contrived to have with the King at Windsor; but he certainly made himself responsible for it by approving it, and by taking advantage of it. There is much plausibility in the doctrine, that new Ministers, by accepting office, make themselves answerable for the grounds on which their predecessors were turned out, as otherwise the King does an important act without any one being answerable for it, and he might be supposed to *have done wrong*:—but in this instance Lord Eldon did not hesitate positively to applaud all the King's proceedings in effecting the change.

When the new arrangements were completed, Lord Eldon, finding that the Great Seal was to be restored to him, was happy,—although not very proud of the Duke of Portland as his new chief,—and although he felt a little regret at the exclusion of Lord Sidmouth, the manner in which he had behaved to his former chief having occasionally caused him some remorse, in spite of the oft repeated assertion that he was the “King's Chancellor.” He was soon quite satisfied, however; and thus he wrote to his brother, Sir William:—

“I am most sincerely hurt that Lord Sidmouth is not among us. My earnest wish and entreaty has been, that he should—and many others have wished it; but it has been urged by some, that, at this moment, it cannot be; that not an individual connected with Lord Melville would join or support, if it was so; that a large part of Mr. Pitt's friends would secede; that among Lord Grenville's majority there are persons not adverse, and likely enough to be friendly, who are so desperately angry at Lord S., that, with him in Administration, they would be against it to a man; that Canning declines office if Lord S. was to have office now, but would not object a few months hence; and all the Pittites who talk to me hold themselves bound, by their view of past transactions, not to desert Canning in a question between him and Lord S. Note, the language which those two have held respecting each other has done infinite mischief. And finally, to make bad worse, (with a determination formed, as I understood, to offer a continuance of their situations to Bragge, Bond, &c. &c. of Addington's friends, as laying the foundation of their future junction with himself,) about the very moment that it was formed, they sent resignations—a step which has had a very bad effect. In short, it's a sickening scene that's passing; but I can present it to you more conveniently in conversation than correspondence. When do you return to town? I have written to Sir W. Wynne. I take the Great Seal again to-morrow, if it pleases God. The 1st of April is an ominous day. It will not be in

my possession a month, if there is not a dissolution. On my own personal account, I have no wish about it—much less than I thought I should have had.”

The same day he sent the following most characteristic effusion to his brother-in-law, Dr. Ridley:—

“The occurrence of again taking the Great Seal, Harry, gives me but one sentiment of comfort,—that it is possible I may be of use to others. The death of my friend Mr. Pitt, the loss of my poor dear John, the anguish of mind in which I have been, and ever must be, when that loss occurs to me,—these have extinguished all ambition, and almost every wish of every kind in my breast. *I had become injured to, and fond of retirement.* My mind had been busied in the contemplation of my best interests,—those which are connected with nothing here. To me, therefore, the change is no joy:—I write that from my heart. But I cannot disobey my old and gracious Master, struggling for the established religion of my country; and I hope all good men will join in our efforts, and pray for the peace of Jerusalem. But all good men must join in his support, or he and our establishments will fall together.

“I am to receive the Great Seal to-morrow. Whether party will allow me to keep it a fortnight, I know not. On my own account I care not.”

Before making any comment, I add an extract of a letter to his old friend the Rev. Dr. Swire, written the day after he was actually Chancellor the second time:—

“Whilst dreaming of a visit to you, I have awaked with the Great Seal in my hand, to my utter astonishment. But this attack upon the Establishment has brought forward on the part of the King, governed by his own determinations and without any assurance of support, a firmness which, I confess, astonishes me. The world should not have induced me to take the Seal again, if his commands had been of such a nature as to leave me any choice; or the circumstances, which must inevitably lead to difficulties in Parliament, probably insuperable, and appeals to the people perhaps without sufficient effect, had not shamed me into decision, that this great and excellent man, for great as well as excellent he has now shown himself, shall not want the aid of every effort I can exert.

“He considers the struggle as for his throne; and he told me but yesterday, when I took the Seal, that he did so consider it; that he must be the Protestant king of a Protestant country, or no king. He is remarkably well—firm as a lion—placid and quiet, beyond example in any moment of his life. I am happy to add that, on this occasion, his son, the Prince, has appeared to behave very dutifully to him. Two or three great goods have been accomplished if his new Ministers can stand their ground. First, the old ones are satisfied that the King,

whose state of mind they were always doubting, has more sense and understanding than all his Ministers put together: they leave him with a full conviction of that fact. Secondly, the nation has seen the inefficiency of 'All the Talents,' and may perhaps therefore not injure us much by comparison. When he delivered the Seal to me yesterday, he told me he wished and hoped I should keep it till he died. If we get over a few months we may support him."

Very different language this of the restored Chancellor to that of the discontented ex-Chancellor on the dissolution of the late Parliament!!! The King is now one of the most rational, right-headed, best-disposed, and best conducted of men. His Majesty no longer feels uneasiness at the presence of "the person who had attended him in *two fits of insanity*," and, instead of being "surrounded by domestic falsehood and treachery," even his eldest son "*appears to behave very dutifully to him*." But, in perusing these letters, disgust is chiefly excited by the hypocritical lamentations which they express upon the writer being again compelled to take the Great Seal. While excluded from office, he had been the most discontented, and restless, and turbulent, and impatient of his whole party. I do not presume to criticise his feelings, or blame his activity, while in opposition, although I may wish that he had discovered more creditable subjects for his intrigues than the "Delicate Investigation," and the "Danger to the Church;" but when, by good luck and skilful conduct, he had gained the object so near his heart, it is too bad that in writing to his bosom friends—having nothing to gain by dissimulation—he should pretend that he considered his resumption of the Woolsack a grievous calamity, to which he never would have submitted had it not been for the promise extorted from him by George III. at the time he was raised to the office of Chief Justice of the Common Pleas, and the peremptory manner in which that promise was enforced. A distinguished writer in the *Law Review*^k says, perhaps rather harshly, "there is a positive certainty that this cannot be an honest representation of the fact;" and, believing that by the frequent repetition of such sentiments the noble and learned Lord at last really became his own dupe, I would rather adopt the candid defence of him by his kinsman, Mr. E. W. Surtees, who says, "The reiterated attempts to represent the highest honours of his life as to him only grievous incumbrances, forced upon his reluctant acceptance, were in all probability

the mere result of that inveterate habit of canting, which, whether originally caught from the example of his old school-master, Dr. Moises, or adopted to acquire admiration or disarm envy, disfigured and degraded a character in which there was much to admire and love."^m

The Great Seal was again put into Lord Eldon's hand with the title of Lord Chancellor, on the 1st of April—many jests being passed upon him and his colleagues for their selection of "All Fools' Day" for the solemnity of their installation."

He was warmly welcomed on his return to the Court of Chancery—where even the Whig lawyers had, for thirteen months, felt very uncomfortable. It happened that, on the first day of his sitting in Lincoln's Inn Hall, he was delayed from taking his place on the bench by the want of his wig. Sir Samuel Romilly, hearing of this *embarras*, went into the private room where the Chancellor was sitting, and with some apology offered him the use of *his*. Lord E.: "I willingly accept your offer, Sir Samuel; but I cannot help feeling how very much better the wig would be worn on this occasion by its proper owner." Sir S.: "I thank your Lordship for your kind speech—and let me avail myself of the opportunity which it gives me of assuring you, in all sincerity, that, greatly as we differ in our political views, there is no man who rejoices more heartily than I do at your resuming your place in this Court."°

In a debate which took place in the House of Lords soon

^m Lives of Lords Stowell and Eldon, p. 97.

ⁿ The chronicler of the Court of Chancery, however, proceeds with his accustomed gravity—"1st April, 1807. Thomas Lord Erskine, Lord High Chancellor of that part of the United Kingdom of Great Britain and Ireland called Great Britain, having delivered the Great Seal to the King at the Queen's Palace, on Wednesday the 1st day of April, 1807, his Majesty the same day delivered it to the Right Hon. John Lord Eldon, with the title of Lord High Chancellor of Great Britain, who was then sworn into the said office before his Majesty in Council; and on Wednesday the 15th day of April, being the first day of Easter Term, he went in state from his house in Bedford Square to Westminster Hall, accompanied by the Judges, King's Serjeants, King's Counsel, and several other

persons. The Lord Chancellor proceeded into the Court of Chancery, where, before he entered upon business, in the presence of the Earl of Camden, Lord President of his Majesty's Council, and Lord Hawkesbury, one of his Majesty's Principal Secretaries of State, and a full Court, he took the oaths of allegiance and supremacy, and the oath of Chancellor, the same being administered by the Deputy Clerk of the Crown, his Honour the Master of the Rolls holding the book, and three other Masters being present; which being done, the Attorney-General moved that it might be recorded. Then the Lords Camden and Hawkesbury departed, leaving the Lord Chancellor in court."—*Min. Book*, No. 2, fol. 85.

° On the authority of a Right Reverend Prelate, to whom Lord Eldon related the anecdote.

after the new Ministers were installed; upon the unconstitutional manner in which their predecessors had been dismissed, Lord Eldon was charged with having taken advantage of the private interview which he had with the King respecting the disputes between the Prince and Princess of Wales, to advise his Majesty to insist on the "pledge" which was the immediate cause of their dismissal. We have only the following short sketch of the answer which he then made: "The Lord Chancellor represented the present discussion as wholly new, irregular, and unparliamentary. Indeed he thought the sense of their Lordships should be strongly marked to that effect on their Journals. As to the insinuations which had been personally thrown out against himself, as having been one of those who secretly advised his Majesty to dismiss his late Ministers, he should treat them only with the contempt they deserved. The circumstance of his having had the audience of his Majesty he had stated to the noble Baron (Lord Grenville), and he trusted that the noble Lord was perfectly well satisfied with the sincerity of his statement. The only pledge he had given was, the uniform tenor of his public life. His Majesty asked no other, and he should continue to serve his Sovereign, to the best of his abilities, without fearing any responsibility that might attach to his official conduct."^p Afterwards, in the year 1813, when Earl Grey was sitting by him on the woolsack, and they were talking on the subject of the Princess of Wales, he said, "I do assure you—you may believe it or not, as you think proper—but I do assure you, that when I had the conference with the King in 1807, which I requested, it was solely for the purpose of representing to him what mischief might follow if Perceval was not prevented from publishing the book which he was then bent on publishing."^q As he confessed that he did not expect to be believed, we may be allowed to entertain some doubts as to the accuracy of his recollection of all that passed in the interview with the King. In the "Anecdote Book" he says (I believe with strict truth), "In order to disarm political jealousy, I communicated to Lord Grenville, then Minister, that I was going to Windsor, and the nature of the business which led to my visiting his Majesty." He goes on flatly and circumstantially to deny the charge,—but he materially weakens the force of his denial by introducing it with this

^p Parl. Deb. ix. 422.

^q Mem. of Sir S. Romilly, iii. 104, Twiss, ch. xxiv.

insincere sentence:—"It happened, *unfortunately*, about this time, that the Administration meditated a bill in Parliament which was favourable to the Roman Catholics, and that there was that misunderstanding in consequence of it which led to the King's dismissing his Administration." He must have thought that those were very credulous, who could be persuaded that he considered the blunder of the Whigs in bringing forward the "Roman Catholic Officers Bill," and their consequent dismissal, as *misfortunes*,—and he could not have sifted very nicely the facts which he was to lay before them.

It would appear that for a short time after the formation of the new Government,—for the purpose of wreaking vengeance on the discomfited Whigs,—there was an intention to publish "the Book." Lady Hester Stanhope, in a conversation with her physician, in the year 1837, referring to this subject, said,—"I prevented the explosion the first time, and I will tell you how. One day the Duke of Cumberland called on me, and in his accustomed manner began:—'Well, Lady Hester, it will be all out to-morrow. We have printed it;' and to-morrow it will be all out.' I knew what he meant, and said to him, 'Have you got the Chancellor's leave? I, for my part, don't like the business at all.' 'Why don't you like it?' asked the Duke. 'Because,' answered I, 'I have too much respect for Royalty to desire to see it made a subject for Grub Street songs.' I did not say this so much on the Prince of Wales's account as for the sake of the Princess. I dreaded the *other* disclosures to which a business like this might lead. The Duke turned away, and I saw that the same idea struck him; for, after a pause, he resumed his position, and answered,—'You are quite right, Lady Hester; by God, you are quite right; but what am I to do? We have gone too far; what am I to do?' 'Why, I think,' rejoined I, 'the best thing you can do is to go and ask the Chancellor.' So off he packed; and I fancy Mr. Perceval and the Chancellor and he talked it over, and decided on quashing the business."

It has been said that the chief opposition to the suppression came from the King, who, "hating his eldest son with a hatred scarcely consistent with the supposition of a sound mind," wished that he should be exposed to public obloquy.¹

¹ It was printed at a private press in the house of Mr. Perceval, on the west side of Lincoln's Inn Fields.

² Vol. I. p. 395. Lady Hester afterwards states, in a manner which rather impairs her

credit, that Mr. Perceval paid 10,000*l.* out of the secret service to recover one copy of "the Book," which had been stolen from his table.

³ Lord Brougham.

The true end for which "the Book" had been composed having been accomplished, the authors themselves soon became very much ashamed of it, and were eager to destroy every trace of its existence. Some copies, however, surreptitiously got into circulation, and in the "Phoenix" Sunday newspaper, published on the 21st of February, 1808, there appeared the following announcement and mottoes:—

"We are fortunate enough to be in possession of some most important documents on a subject so peculiarly interesting, that when we farther explain ourselves, the public will be astonished to learn that they are now likely to be brought to light. The insertion of them shall take place as soon as we have made the necessary preparations for giving the most extensive circulation to our paper.

"INFORMATION MOST EXTRAORDINARY.

'I have news to tell you!!!'

Hen. VIII. Act 4.

'I'll astonish the natives!'

Reynolds.

'Better late than never!'

Old Proverb.

'I'll show your Grace the strangest sight
think your highness saw this many a day!'

Hen. VIII. Act 5.

'The tidings that I bring will make my boldness manners.'

Ib.

'At what ease

Might corrupt minds procure knaves as corrupt

To swear against you! Such things have been done!'

Ib.

'—— When I am dead, good wench,

Let me be used with honour; strew over me

With maiden flowers, that all the world may know

I was a chaste wife to my grave; embalm me,

Then lay me forth; although unqueen'd, yet like

A queen and daughter to a king, inter me!'

Ib.

After my death, I wish no other herald,

No other speaker of my living actions,

To keep mine honour from corruption,

But such an honest chronicler as Griffith.'

Ib."

The Chancellor and Mr. Perceval were grievously alarmed; and Sir Vicary Gibbs, the Attorney-General, with a view to stop the publication by injunction, filed an information in the Court of Chancery, stating that a commission had issued by the King's orders to certain privy-councillors, to inquire into certain charges against her Royal Highness the Princess of Wales; that they had made a Report upon the subject to his Majesty; that Francis Blagdon, the proprietor of the Phoenix Sunday newspaper, pretended to have got a copy of this Report, and that he was about to publish it with certain scurrilous commentaries, and praying that he

A.D. 1808.

might be prevented by injunction from doing so, and that by a decree he might be ordered to deliver up the same to the Attorney-General for the use of his Majesty.

Strange to say, the case came on before the Lord Chancellor Eldon, one of the authors of "the Book." He adjourned the hearing of it from Lincoln's Inn Hall to his private room. There the motion was made by the Attorney-General in person,—assisted by Sir Arthur Pigot, Sir Samuel Romilly, Mr. Bell, and Mr. Mitford, "that an injunction might be awarded to restrain the defendant from parting with and from printing or publishing the Report in the Information mentioned, or any document or proceeding made or had in the prosecution of the said commission, or any abstract or extract of or from the same." I have not been able to learn what passed during the discussion, but, from an office copy of the Order made, which lies before me, along with the information and affidavits, it appears that the injunction was granted in the terms prayed for.

One would have expected that the matter would have been handed over to the Master of the Rolls, but I do not suppose that there was any impropriety in Lord Eldon himself sitting and giving judgment on this occasion, for the application did not proceed on the piracy of any original observations on the Report from his pen, as a violation of literary property, contrary to the law of copyright,—but merely upon the title of the Crown to prevent the publication of a Report made by privy councillors in such an inquiry; and there could be no doubt respecting the law upon this subject, although it seems to have been utterly forgotten by those great lawyers, Lord Eldon, Mr. Perceval, and Mr. Plumer, when they themselves composed and printed "the Book" for general circulation.

Although "the Book" was suppressed, the unhappy Princess was received at Court, and was treated with much kindness and respect by her present protectors, till her husband became Regent and King, and they became his Ministers.

CHAPTER CC.

CONTINUATION OF THE LIFE OF LORD ELDON TILL THE PERMANENT
ILLNESS OF GEORGE III.

LORD ELDON, on being re-appointed Chancellor, thought his tenure of the Great Seal exceedingly precarious; yet he held it continuously for more than twenty years—A.D. 1807. taking a prominent part in an Administration which, in the midst of unexampled difficulties, skilfully conducted our foreign affairs, and, by the aid of the most consummate General who ever led an English army to victory, overthrew the power of Napoleon, and restored peace to the world.

The first measure of the new Administration was an immediate dissolution of the Parliament, which had only sat a few months. This Lord Eldon strongly recommended, notwithstanding his violent animadversions on the late Ministers for dissolving a Parliament which had sat above four years. The speech delivered by him, closing the session in the King's name, announced the object of this proceeding to be, "to afford to his people the best opportunity of testifying their determination to support him in every exercise of the prerogatives of his crown, which is conformable to the sacred obligations under which they are held, and conducive to the welfare of his kingdom and to the security of the Constitution." This plain denunciation of the Catholics was received with loud applause, and most of the candidates supposed to be favourable to their claims were defeated at the hustings. When the "No-Popery Parliament" met, the note of triumph was sounded in the royal speech delivered by the Lord Chancellor, which boasted of "the numerous addresses which his Majesty had received from his subjects, expressing their firm resolution to support him in defending the just rights of his crown and the true principles of the Constitution."^u

An amendment being moved, censuring the late dissolution, and the principles upon which the change of Administration had taken place, "the Lord Chancellor said the present Go-

^u 9 Parl. Deb. 577.

vernment was stigmatised by the amendment, which accused them of manifest misconduct. He defended the dissolution, which had been found necessary for the safety of the Established Church; and he denied the general doctrine, that Ministers, by accepting office, were responsible for the manner in which their predecessors had been dismissed,* although he declared his entire approbation of the principles on which the King had lately called to his councils men in whom not only his Majesty but the nation confided."† The amendment was rejected by a majority of 160 to 67.‡

On a subsequent day, Lord Erskine and Lord Spencer having reiterated the same complaints on the occasion of the second reading of a Bill to indemnify Ministers for an Order in Council rendered necessary by the dissolution of Parliament, "the Lord Chancellor avowed, that, with a view to render the new Administration as firm and as vigorous as possible, he had been a strenuous adviser—probably one of the most strenuous advisers—of that measure. He looked to the Protestant people, whose regard and veneration, once lost to the Government, would at least be but imperfectly replaced by the conciliation of the Roman Catholics. But such a conciliation was not, in his opinion, at all likely to be effected. He concluded by taunting the late Government for confining their measure of relief to officers in the army and navy, and asked why it should not be extended to all professions and all offices in the state?" In a subsequent stage of the bill he was quite jocular in answering a charge of having been factious when in Opposition, and observed, that "*All the Talents*, as they were called, had been absolutely without any opponents in that House, or he believed any where else, until they began to *oppose* themselves."§

The only other occasion of his addressing the House during this session was for the purpose of throwing out Lord Holland's Bill for the establishment of Parochial Schools, —on the ground that "it departed from the great principle of education in this country, by taking the business of instruction, in a great degree, out of the superintendence and control of the clergy." He even objected to a provision in the bill giving

* Sir Robert Peel, who will generally be found to lay down sound constitutional doctrine, admitted in the Parliament which met in the beginning of 1835, that in accepting office, after the dismissal of Lord Melbourne's Government by William IV., he made him-

self responsible for that act, although he was at Rome when it took place, and he was in no respect actually privy to it.

† 9 Parl. Deb. 605.

‡ Ib. 607.

§ Ib. 808.

* Ib. 778.

the Court of Chancery jurisdiction over the funds appropriated to the use of the schools; saying,—what he would not have allowed any one else to say without expressing high indignation,—“It should be recollected how money so intrusted was *sweated* in that court, and how, in the end, when the oyster came to be divided, the parties entitled got nothing but the shells.”^c His will in the House of Lords was henceforth law, and at the prorogation he exultingly returned thanks to them in the King’s name, “for the steady loyalty, and the zealous devotion to the public service, which had characterised all their deliberations”^d—although only a few months had elapsed since his desponding conviction that the King was alienated from him, and that the Whigs, with their new Parliament, were permanently fixed in power. This revolution was in no small degree to be attributed to his own dexterity in turning to account the prejudices of the King and of the people.

Lord Eldon at this time exercised a much greater influence in the Cabinet than had belonged to any Chancellor for a vast number of years. The nominal head of the Government was the Duke of Portland—never a very vigorous statesman, and now enfeebled by age and disease; and Mr. Perceval, leader of the House of Commons, having long practised as counsel under the Chancellor, still regarded him as his chief. Lord Camden, Lord Westmoreland, Lord Mulgrave, and Lord Chatham, were very little considered; and Lord Hawkesbury, Lord Castlereagh, and Mr. Canning, though aspiring statesmen, had not yet acquired much ascendancy. Lord Eldon continued in high favour with the King and the Duke of Cumberland; and his colleagues, sensible that they chiefly owed their places to his skilful intrigues, were, for a while, much disposed to defer to his opinion.

He zealously supported, if he did not suggest, two measures of great energy, but very doubtful justice and expediency—the discussion of which long occupied Parliament and the public—the Orders in Council against Neutral Commerce, and the seizure of the Danish fleet. Napoleon’s Berlin and Milan decrees having declared “the whole of the British dominions in a state of blockade,” and ordained that “every article of her manufacture, or belonging to her, or coming from her colonies, wheresoever found, should be lawful prize,” it was judged right, through orders in council, to retaliate, by de-

^c 9 Parl. Deb. 1176.^d Ib. 1223.

declaring "that not only the ports and places of France and her allies, and of any other country at war with his Majesty, but likewise all ports and places in Europe from which the British flag was excluded, and all ports and places in the colonies of the King's enemies, should be subject to the same restrictions, in point of trade and navigation, as if they were under actual blockade; and further, that all trade in the produce or manufacture of the said countries or colonies should be deemed unlawful; and that every vessel trading from or to them, and its cargo, and every article of the produce or manufactures aforesaid, should be liable to be captured as enemies' property." Of these orders in council Napoleon had no right to complain; but they were grievously unjust to neutrals, and it is now generally allowed that they were contrary to the law of nations and to our own municipal law.

On the seizure of the Danish fleet, diversity of sentiment still prevails; but, in my opinion, the act was unjustifiable, for the Danes had offered us not the slightest provocation, and it is vain to say that self-preservation required such an outrage upon an independent and friendly people,—the only pretext for it being that, if we did not seize their ships, probably, ere long, Napoleon would have tried to do so.*

The stormy session of Parliament which began in January, 1808, was almost entirely taken up with motions on these two subjects. Lord Eldon repeatedly defended with ability the orders in council. "He denied that they were contrary either to international or municipal law. He admitted that neutrals might suffer some inconvenience by the retaliation which placed them between confiscation by France or by

* I have received from the venerable ex-Lord Justice General Hope a letter in which, after some complimentary expressions, he says, "I differ from you respecting the expedition to Copenhagen, and the seizure of the Danish fleet. The fact was this.—Mr. Henry Hope, of Amsterdam, and of the great house of Hope and Co. there, upon the invasion of the French on Holland, came over to this country, and lived in that large house in the corner of Hulse Street, Cavendish Square, in which he had that fine collection of pictures. On account of his mercantile and banking proceedings, he was led to have secret agents and banking correspondents in every court of Europe among others, at Paris in the time of Buonaparte. And by them at Paris

he learnt that Buonaparte was that very time marching small detachments of soldiers, under lieutenants, through Germany to Copenhagen, there to take possession of, and man, the Danish fleet. This fact Mr. Henry Hope communicated to my brother, Sir William, who of course communicated it to the Board of Admiralty, of which he was then a member, and of course our expedition was undertaken in order to anticipate that of Buonaparte. Now this private history could not be made public at the time; for if it had, Buonaparte would have put to death the one half of his officials in Paris. In consequence our Government was obliged to let the affair pass as a voluntary and spontaneous movement of ours."—*Note to 3rd Edition.*

England; but a neutral nation, which by her acquiescence in an invasion of her rights lent herself to one belligerent at the expense of the other, could have very little reason to complain if the other belligerent protected himself by the necessary measures for rendering such a combination ineffectual. Those measures were aimed not at the neutral but at the adverse belligerent—the damage to the neutral was only incidental. It might be an evil, but it was not an injury. With respect to America, the chief sufferer, we must recollect the mischief she caused us by acquiescing in the decrees of Buonaparte, as well as the advantage she might bring to us by her trade and friendship; and he hoped that, instead of going to war with us, she would join us in resisting the extravagant pretensions of the common enemy of all civilised nations.” It required much suffering to ourselves from the Orders in Council, as well as a long-continued series of attacks against them in both Houses of Parliament, to do away with the effect of such arguments.^f

The cause of the Danes was warmly taken up by Lord Ellenborough and Lord Sidmouth, who, having been ejected with the Whigs, were not disposed to view with much favour the measures of the new Government, and who commented severely on this expedition as dishonourable to England and li creditable to those who had advised it. Lord Eldon had been shocked at the carnage caused among the Danes, which, however, he ascribed to “weak pride and false honour,” in not quietly submitting. In a letter to Lady Eldon, giving an account of a conversation with some of the officers present, whom he had met at dinner on their return, he says, “The state of the inhabitants in Copenhagen, and their distresses, must have been terrible and tremendous. In one street our men destroyed five hundred persons, principally poor helpless women and children. It seems weak pride and false honour that actuated the Danish commander. From the first he meant to surrender, and yet wished to have the credit of a battle before he did so; and to this point of military etiquette he sacrificed one-fourth of the buildings of the town, and devoted to destruction property and lives to a terrible amount. It made my heart ache, and my blood run cold, to hear the accounts these gentlemen gave.” But now, in the House of Lords, he declared that, “so far from feeling himself dishonoured as an Englishman by the measure adopted,

he should have felt himself dishonoured if, under all the circumstances, he had hesitated to concur in advising it;"—and he scouted the proposal that the ships should be restored to Denmark at the end of the war, saying "that the Danish Government had not even a pretence for demanding a restitution, which had been offered only on the condition of peaceable surrender."^a

Soon after came the Jesuits' Bark Bill, in opposing which, April 7,
1808. as counsel, at the bar of the House of Lords, I made my *début* in public life.^b Lord Eldon behaved with great courtesy to me, and, I must say, seemed impressed by my observations and evidence as to the private injustice which would be done to my client, the owner of several valuable cargoes, which would be embargoed and rendered useless by this measure, directed against the fever hospitals of France. He took no part in the debate, leaving it to others to contend that the bill rested on the principle which justifies cutting off supplies of arms and provisions from a besieged town,—although he was compelled to vote in the disgraced majority of 110 to 44, by which it was carried.¹

He still continued his intimacy with the Princess of Wales, who was patronised by the King, and not only visited her at Blackheath, but gave her a grand dinner in his own house in Bedford Square. From the following good-natured note, we find that this entertainment had gone off well, although he had not been able to prevail on Lady Eldon to appear at table:—

"Thursday, June 9th, 1808.

"The Princess of Wales desires of the Lord Chancellor to express to Lady Eldon how much she was mortified at not having had the pleasure of meeting her at the Chancellor's agreeable dinner; and trusts that, whenever another opportunity shall offer itself, she may have the gratification of assuring the Lord Chancellor, as well as Lady Eldon, that the Princess will ever be happy of personally assuring them of her highest regard at their house."

^a 10 Parl. Deb. 656. He used afterwards to relate, on the authority of the King himself, an anecdote showing that on this occasion his Majesty could not have approved of the act of his Ministers. "When Mr. Jackson, our ambassador sent to Copenhagen to demand the surrender of the fleet, was presented at Court on his return, the King abruptly asked him, 'Was the Prince Royal

upstairs or down when he received you?' 'He was on the ground floor,' was the answer. 'I am glad of it, I am glad of it,' rejoined the King, 'for if he had half the spirit of his uncle George III., he would infallibly have kicked you down stairs!'"

^b *Ante*, Ch. CLXXXVI.

¹ 10 Parl. Deb. 1820.

The same autumn he received a visit of some days, at his country residence, Encombe, in Dorsetshire, of his steady friend and associate in Cabinet-making, the Duke of Cumberland. An entertaining account given by him, in a letter to his daughter-in-law, of his Royal Highness's gracious demeanour, says, "He was very good-humoured and condescending, and we all behaved well. . . . dear Mamma very well, after the flutter which, you know, so rare a scene would occasion. . . . Fanny got an embrace, and we have had some difficulty to get her to allow her face to be washed since, lest she should lose the impression."

The session of 1809 was very inactive with the Lords, who were obliged to look quietly on while the nation was almost convulsed by the proceedings in the House of Commons against the Duke of York. Lord Eldon privately gave advice as to the conduct of the defence—and if it had been implicitly followed, the result would probably have been less disastrous. On the resignation of the command of the army, he wrote to his daughter-in-law,—“People in general, as far as I have seen any body, seem affected and softened in consequence of this step; but whether the bloodhounds of St. Stephen's on Bragge Bathurst's motion to-morrow will or will not continue to hunt him down in his retirement, I cannot say; but I have seen so much of injustice that I shall not be surprised to see a good deal of hard-heartedness; and the Duke's measure having disappointed some political manœuvres, the vengeance of politicians may still follow him, when men with hearts would forgive and relent.” However, he judged rather harshly of the Duke's prosecutors; for the vote charging him with complicity in the sale of commissions by Mrs. Clarke was not pressed, and the general belief being that his conduct, although censurable on the score of morality, was entirely free from pecuniary corruption, he was allowed, two years afterwards, to resume the command of the army, when, by the admirable management of it, he essentially contributed to the triumphs achieved by England in the Peninsula.

Lord Eldon had an opportunity of showing his abhorrence of innovation, on a proposal being made (which has since been carried into effect) of prohibiting the sale of all offices connected with the administration of justice. As he must be supposed to have read the trial of Lord Macclesfield, he no doubt caused some astonishment when he said “he believed

there was not on record an instance where the patronage bestowed on the Keeper of the Great Seal had been abused, from the Revolution to the present hour, although that patronage was a main link in the chain that fitted each noble person who preceded him in office during that period, to have the personal means of holding rank consistently and suitably with others of their Lordships.*

In the House of Lords there was nothing more memorable during the session than the event of Lord Byron taking his seat on coming of age. Those who are ignorant of the careless manner in which such a ceremony is always conducted, have speculated much, and foolishly, upon the poet's disappointment at not being received with more distinction. We have the following authentic account of it from himself, in one of his note-books:—"When I came of age, some delays, on account of some birth and marriage certificates from Cornwall, occasioned me not to take my seat for several weeks. When these were over, and I had taken the oaths, the Chancellor apologised to me for the delay, observing that these forms were a part of his duty. I begged him to make no apology, and added, as he certainly had shown no violent hurry, 'Your Lordship was exactly like Tom Thumb (which was then being acted),

" 'You did your duty, and you did no more.' "

Parliament was prorogued so early as the middle of June, and Lord Eldon expected a tranquil long vacation at Encombe; but he was doomed to suffer much anxiety before the return of Michaelmas Term,—and, in the course of a violent and protracted Ministerial crisis, he repeatedly thought that the Great Seal had for ever departed from him. The age and declining health of the Duke of Portland showed that the office of First Lord of the Treasury must soon be vacant. The King, referring to this subject, had "expressed himself as thinking the Duke could not remain long where he was, and therefore it was necessary that his other Ministers should look about them."^m The grand struggle was between Mr. Perceval and Mr. Canning,—the former being patronised by Lord Eldon, and the latter preferred by the majority of the Cabinet, particularly by the more liberal section of it, who had been the personal friends of Mr. Pitt. Canning commenced operations, with a view to establish his own ascendancy, by insist-

* 14 Parl. Deb. 1016.

^m Letter from Mr. Perceval to Lord Eldon, 16th Aug. 1809.

ing—that Lord Castlereagh, although permitted to retain his office, should be removed from the conduct of the War Department, for which he was supposed to have shown himself very unfit, and which was to be transferred to Lord Wellesley. This demand was conceded to him; but it was arranged that the intended change should not be communicated to the party principally interested till after the sailing of the *Walcheren* expedition (of which he was the author), and that it should then be broken to him by his near relation, Lord Camden. The result of this expedition having been still more disastrous than had been apprehended, Canning insisted that the promise made to him should be carried into effect; and, being told not only that Lord Castlereagh had yet been kept in ignorance of the whole arrangement, but that new difficulties had arisen of which he had not been before apprised, he insisted that his own resignation, which he had before tendered, should be laid before the King. He likewise desisted from any further attendance in Cabinet, although he continued to do the routine duties of his office till his successor should be appointed. The Duke of Portland, feeling his inability to quell the raging storm, announced his retirement, which was immediately followed by that of Lord Castlereagh.

The country being suddenly left without a Government, Lord Eldon was summoned from his repose at Encombe, and, on his arrival in town, found, to his horror, that there was a scheme in agitation by which he was to be deprived of the Great Seal. Canning, by way of getting rid of Perceval as a candidate for the Premiership, had proposed that, after having been Chancellor of the Exchequer for three years, he should return to the profession of the law, to which he had been bred, and should be made Lord High Chancellor of Great Britain,—the further advantage no doubt being calculated upon, of entirely excluding from the Cabinet *him* who not only had a personal spite against the semi-liberal proposer of this ingenious expedient, but who was a decided enemy to all improvement in our institutions. In this state of things, Lord Eldon wrote the following letter to his wife, which places him in a very amiable point of view by proving his affection for her, and the confidence he reposed in her:—

“MY DEAREST BESSY,

“Monday, Sept. 11th.

“We are here in a most singular state.

“As soon as the account came that the expedition could not be

pursued, Canning renewed his insistings that Lord Castlereagh should deliver up his situation to Lord Wellesley. The latter² magnanimously, but I think most foolishly, said, he considered C—g's services in the House of Commons of so much consequence that he would resign; and accordingly sent his resignation, stating, however, that he would not condescend to take any other office. This had nearly produced the resignation of Perceval, Liverpool, Camden, and Bathurst. They saw plainly, that if the D. of Portland could give way to Canning, so far as to turn out Lord Cas. merely because that gentleman chose it, Canning was really the Minister, the Duke but an instrument in his hands, and that the world must see it too, and that every body was at the mercy of that gentleman's caprice. This intended measure alarmed the Duke; he thought the King would be deserted; that if some other great nobleman was put in his place we might be all kept together still; and so the Duke sent in a tender of his resignation, and the King accepted it; and he has commanded Perceval, Liverpool, and myself to get him an Administration, which I think we shall not be able to do. For, mark what follows. This well-intended step on the part of the Duke has produced what shows me that I have been right in my conjectures, what from the first have been Canning's objects. Canning instantly wrote to Perceval, to say that some person in the House of Commons must be Minister, and in a roundabout way intimated that he, Canning, could not think of Perceval's being Minister, which of course left Canning the only person to be Minister; and he intimated, that if either there was a Minister in the H. of Lords, or Perceval was Minister, that he (!) must resign. This quick step appears to me, I own, to have been a mode of trying whether Perceval's attachment to the King would be so far taken by surprise, as to lead him, at the moment, to give way. Little P., however, was upon the alert: he stated his willingness to remain as he was, provided nobody in the House of Commons was put over his head, but he would not act under Mr. Canning as Minister, tho' upon equal terms with him he would act. Canning's present suggestions therefore seem to be, that he will resign. I think, however, he will make an attempt, professing to fall in with the purpose of having a Minister in the H. of Lords, to get somebody named who shall be entirely under his own influence; and if that scheme does not succeed, which I think it will not, he will retire; and will thus, in the attempt to gratify his ambition, have contrived to overthrow himself and all of us along with him; and this is called *serving* the King.

"There are but two things which in that case can be done. The one is to attempt to strengthen the King's friends who hang together, by some junction of parties; the other, to fight it out with such aid as we can get from our own party. I think Liverpool clearly is for the former plan; I think Perceval also is, but not so clearly,—he has doubts. I own I do not like it. In the first place, I think nobody,

² Lord Castlereagh must be meant.

that joins from other parties, would join unless I cease to be Chancellor; and, in the next place, I have an opinion about this thing called 'junction of parties,' which would disincline me to remain Chancellor. I think it never strengthens anybody, and it does nobody credit. And that body of us who have hitherto thought ourselves strong in public opinion would lose the whole of the good opinion of the public. On the other hand, I think it very clear, that if we stand alone, we must fall after a very short—very, very short—desperate conflict, with the Opposition joined by Canning and his followers. In the latter mode I think the King will oblige us to fight the battle, at all hazards, if he can persuade us—but I am not sure he can persuade enough of us to fight it so. Upon the whole I think it quite clear, either that some junction of parties will immediately take place, or that a change without a junction of parties will very soon take place. What will you think of politicians, when I tell you that it has even been suggested that Perceval should return to the law, and be made Chancellor, and that, to provide for keeping things together in this way, I should retire? Perceval himself told me this: he did not name Canning as proposing it, but I take, upon suspicion, that to have been so: and then, Perceval being Chancellor, Canning might be Minister. Perceval treated this as he ought.

"I thought you would like to know how things go on; and though, as they are going on, I can give no guess when I shall have the blessing of seeing you, it is quite manifest that either I shall return to you without the Seals, which I think very probable,—or, if that is not so, that before Christmas they will not be in these hands. Immediately therefore, or shortly, those days will commence in which we may, with God's blessing, fear no interruption of our happiness by any future, even temporary, separation between us. *This I write all to yourself.*"

While things continued in this plight, he thus vents his spleen against Canning and the Duke of Portland in another letter to Lady Eldon:—

"I think the individual who has occasioned all this mischief, is Vanity in a human form. Nothing will serve him but being what he will never be permitted to be.

"And I believe now, such is the imbecility of man, that the old D., who had resigned, is trying, in vain, to get back again."

He continues his bulletins:—

"Thursday (Sept. 14th).

"MY EVER DEAR LIFE,

"One after another, all of us saw the King yesterday: he is more to be pitied than any man in his dominions: and one ambitious man is the cause of all he now suffers. Mr. C. thinks proper, that his determination not to act under a third person, or to do any thing else

but be himself Minister, should remain unshaken: and his resignation [is] certain. I am just going to a meeting of such of us as have hearts feeling for the King, to see what can possibly be done, as all attempts to bring matters to rights again have finally failed. I cannot, for one, see a ray of hope that any thing can be arranged which can have any endurance,—if indeed any arrangement whatever can be made; and yet the poor K., in language that makes one's heart bleed for him, urges that we should not run away from him. My head and heart are perplexed and grieved for my old master's sake; upon my own account I do not care a fig about it."

"Friday morning (Sept. 15th).

"After a great many hours spent in consultations yesterday, to be succeeded by more to-day, among those in whom the King thinks he can still have confidence, we have formed, or shall form, opinions which are to be offered to his consideration, and which he will adopt or reject as he thinks fit. I still think that it cannot end in my remaining in office. I use the expression, in whom the King *thinks* he can have confidence, because I am sure there is scarce a man living, of whom he can say that he *knows* he may have confidence in him. I wish to God the thing was settled one way or the other! If I knew that I was to go out, I would come to you instantly, and stay over Christmas; if I knew I was to stay in, I could then know when and how I was to see you. Some of the plans proposed are what I do most greatly abhor, and I think they won't succeed. I have offered my office to the King, and told him, for I write constantly when I don't see him, my likings and dislikings. 'For God's sake,' he says, 'don't you run away from me: don't reduce me to the state in which you formerly left me. You are my sheet anchor!' I fear the effects of his agitation and agony—and I do pray God to protect him in this his hour of distress.

* * * * *

"May God's best and kindest providence watch over her who has the whole heart of *her*

"ELDON."

"Monday, Sept. 18th.

"I proceed to tell you with much feeling, that the train of settlement we seemed to have got into is all undone. Shocked as I am to say it, George Rose has declared his attachment to Canning,—Huskisson has done the same,—Charles Long won't abide by us,—Sturges Bourne has declared for Canning. As these are the four men of business, it appeared to us last night that, without junction, the King must be sacrificed; with it, I do not know how he is to be saved in any degree of comfort. We are to take the resolution as to what is to be communicated to him at a meeting to-day at one o'clock. I cannot help thinking but that it must, that it necessarily must, lead to my being restored to a life of privacy."

“Thursday, Sept. 21st.

“MY EVER LOVED ELIZA,

“After I finished my letter yesterday, I went to the levee, and I had an audience of the King for a full hour. His agitation and uneasiness were such as have left me perfectly agitated and uneasy ever since I left him, though, I thank God, I am quite well. I dare not commit to paper what passed, for fear accident should not bring that paper to the hands of my Eliza; and though I promised her a letter of particulars, the particulars that passed are really so very special in their kind, that I cannot communicate them even to her except in conversation—and would I could have that conversation! He would not decide what he would do, but said he should compose a paper at Windsor last night, and require from us written answers to several questions he should put in that paper, and order us to be convened to-day to consider the questions and give the answers: and accordingly we are summoned to meet at one o'clock at Perceval's; and I think it not unlikely, from what I know, that we may sit there till one in the morning. By *we* I mean such of us as have not resigned or tendered our resignations.”

The same day had taken place, on Wimbledon Common, the famous duel between Castlereagh and Canning, in which the latter received a pistol-ball in his thigh. The Chancellor continues his bulletins to Lady Eldon:—

“Sept. 22nd, Friday.

“MY EVER DEAREST,

“I had hoped, when I wrote yesterday, that I should have been a great deal wiser to-day than I am. We waited at our meeting to a late hour, but no paper came from the King. I infer from this that he is in a most unhappy state of difficulty, and knows not what to do; and I greatly fear that something of the very worst sort may follow upon the agitation. If it pleases God to avert this greatest of all evils, we shall, I hope, have his paper to-day, and proceed in the consideration of it. But if he has taken *so much* time to consider it, I fear I must look to those before whom it is to be laid taking *some* before they can make up their minds what answer they shall give to his questions and observations; and thus things train on from day to day, through a period of time which is very long, and seems longer and longer as it is protracted. This dreadful business of the duel between Castlereagh and Canning, whilst it is to be lamented on every ground, adds difficulty to difficulty, and I have no doubt will create a great deal indeed of additional uneasiness in the King's mind.”

“Saturday, Sept. 23rd.

“After I wrote to you yesterday, I went to the meeting, and I there found that Perceval had received the King's paper, which is one of the finest compositions, and the most affecting, I ever saw or heard in my life. After discussing the strength which any Administration could

have that did not include G. and G., he acknowledges that there would be a weakness in it, which a sense of duty to his people calls upon him, by every personal sacrifice not affecting his honour and conscience, to endeavour to avoid: he therefore permits his present servants to converse with them upon a more extended Administration than his present servants could themselves make, but declares previously and solemnly, that, if any arrangement is offered to him which does not include such a share of his present servants as shall effectually protect him against the renewal of measures which his conscience cannot assent to, that he will go on with his present servants at all hazards, throwing himself upon his people and his God,—his people, whose rights, he says, he never knowingly injured, and his God, to whose presence he is determined, whenever he is called hence, to go with a pure conscience. He predicts, however, that though he, in duty to his people, submits to this mortifying step, they (G. and G.) will not allow any effect to it; and then addresses himself in the most pathetic strains to all his present servants, calling forth all their courage, their resources, and the discharge of their duty to him. Perceval and Liverpool, therefore, will talk with the two G.'s: and it will either end in a junction, with a good many of the present servants left, or we shall live for about a fortnight after Parliament meets. They cannot begin their conferences till about the middle of the week; and I should suppose, if they begin conferences, they will conclude them in the week. I shall not, however, be surprised if these gentlemen, the G.'s, refuse to confer at all with Perceval and Liverpool, and I think they *will* refuse, especially if they have any understanding with Canning. The King has also written a most dignified paper upon the fact of two persons, yet having the Seals of Secretaries of State in their hands, fighting a duel. I doubt much whether he will permit either of them to make their formal resignations in his presence."

* * * * *

"Sept. 28th, Thursday.

"I cannot bring my mind to think any thing so proper or so good for me as to have done with office now, and to spend the rest of my days in some degree of quiet and retirement; but I am afraid, and indeed sure, that unless he is so driven to the wall as to be able to do nothing whatever that he wishes to do, he will make it a most difficult thing for me to quit his service. Yet I shall beg very hard, for in truth the labour of my office is too much for me in the time of business, and what recompense can I have for what—I speak from my present sufferings—for what I undergo, in having my time of vacation ruined as this is?"

"Monday, Oct. 2nd."

"MY EVER DEAREST AND MOST BELOVED,

"I told you in a little note, on Saturday, that I was obliged to go to Windsor: I was compelled to do it, and therefore I could not help myself. I was called up in the night, so as to set off exactly at three

o'clock in the morning: and I was with the King from seven till a little after eight, engaged with him in a conversation, the most interesting, and affecting, and important, that I have ever had with man in my life. I shall soon, I thank God, I shall soon be able to state the particulars of it in my dearest Elizabeth's hearing, and these particulars I really dare not commit to paper. The general result is, that we stay in, making such arrangements, without junction, as we can,—standing of course till Parliament meets, and then standing or falling as that body will please to deal with us. I think we had better have resigned; but *that* the King would not hear of for a moment. I think going on, with the certainty of being turned out, would be better than junction: at least to me it is more acceptable; and if we are turned out, as we shall be, I shall have the satisfaction of remembering that I declined being a negotiator for junction, and have stood, throughout, the servant of no man or men, but the King, and determined to abide by him and him only, to his last breath, or to my last breath, as far as I have any thing to do with politics. After I left him, the Duke of Cumberland's Encombe servant I found waiting, to tell me that the Duke had just heard that I was there, and had got breakfast for me; and I was shown up to his apartments; and I received a great proof of his good nature and attention, as I thought it, and as he certainly meant it; for he had sent off for and got up William Henry from Mrs. Middleton's,* and he breakfasted with us at the Castle. This was a very pleasing incident. I had very little time to stay, and after sitting awhile and shaking hands with William Henry, who is very well, I returned here upon my business. Perceval will be First Lord of the Treasury in the room of the Duke of Portland. That is at present the only appointment settled. Lord Melville is behaving well; so is Lord Sidmouth. But what is most unexpected, the Prince has really conducted himself towards his father upon this occasion with exemplary propriety. The King showed me yesterday the Prince's letter to him, and his answer; and I'll tell you all about them when I see you.

* * * * *

“At the end of my conversation with him (the King) I asked his leave to return to Encombe. He said I should not go till after his levee on Wednesday, for he must see me there; that I might then put myself in my chaise, come to you without stopping, and stay with you to the end of the month. This was our bargain at parting; and I hope, therefore, to dine with you on Thursday. And of God I have no blessing to ask or pray for with so much of anxiety and importunity, as that nothing may interrupt this. I think nothing will or can. O, that I was with you! For ever, and ever, and ever,

“Yours, your own,

“ELDON.”

. Extracts from two of his letters to Sir William will com-

plete the history of this famous journey to London, and bring him back, still holding the Great Seal, to Encombe.

"Oct. 4th, 1809.

"DEAR BROTHER,

"If you recollect at what vast distances men to be talked with are, you'll not be surprised that I have not filled up vacant offices in my correspondence. Melville must either be in office or be satisfied with being out of it. Now a letter to him, and an answer from him, and a reply to his answer, occupies thirteen days and a half. There's a hope that Lord Wellesley will take the Foreign Secretaryship. He is in Spain. I think Bathurst will have it *ad interim*. One infinite difficulty about Sidmouth is, that every person connected with him must have office found for him: Bragge, Vansittart, Hiley, Hobhouse, &c. &c. Sidmouth's army are all officers, and no soldiers. I suspect George Rose wants to be Chancellor of the Exchequer. As to calling Parliament soon, that will never do. Bets here go twenty guineas to one, that we never face it. But odds are sometimes lost. I think we shall now have no Parliament on this side of Christmas.

"The silence of such of Cas.'s colleagues who knew of the matter cannot be well vindicated. With respect to myself, I feel uneasy; though the period at which I heard it, the personage (the K.) who told it me, and the injunction with which he accompanied a communication which I must needs say he ought not to have made under such an injunction, give me a good deal to say for myself. But, in some degree, all who knew it have been—more or less blamable, but—blamable.

"Nothing can be worse than the Walcheren business. But that business itself will grow worse and worse. The island must be evacuated, and I think you'll soon hear the Army accusing the Navy, and the Navy accusing the Army, as the cause of the failure. There will be warm blood in the two-services.

"Harrowby, I think, will go to the Board of Trade, if he continues to exist: he is very ill. If you don't hear from me on Friday, I shall have gone to Encombe to bring my family home, with such leave of absence as the King to-day shall offer me. I shall not ask any; but I have had a hint that he means to press a short absence on me. In fact I have got to the full extent of all the good I can do here."

"Encombe, Oct. 7th, 1809.

"DEAR BROTHER,

"As I intimated it was likely, I set out after the levee, about eight at night on Wednesday, for this place, and I got here late on Thursday, though I did not stop on the road. I lay so long in bed on Friday that I lost the post, and this I write on Saturday evening for to-morrow's post, Saturday not being post-day here. I shall have all things packed up here, that we may all return on a moment's notice to me to come back. After the full explanation I have given of all I have to say on the present business, I do not know why I should be called up,

but I take it for granted I shall, and therefore shall have my household as well as myself in a complete packed-up state. The Duke of P. gave me a fair opportunity enough, for he took occasion to tell me, that, let what would happen, I must not leave the King: he would not endure it,—that is, he, the King, would not. I replied, that I thought if there was a junction, the new ones would not endure me, and that I was hurt to find that, among the old ones, those whose confidence I thought I had, had been represented to be ready enough to suggest my separation from office, and therefore from the King, without even the mention of it to me. He was apparently embarrassed, said nothing, and looked foolish. I should have pressed him to the quick, but a man labouring under the torment of the stone at the moment was less an object of pity. Of my fact I am sure: there are so many witnesses to it, that there can be no mistake."

I have thought it best to allow Lord Eldon, in this affair, to be his own historian, and these letters afford the most favourable specimen I have met with of his epistolary style. Once more had he completely triumphed in political intrigue. Perceval, whom he favoured, was now Prime Minister; and Canning, who had the audacity to think of a new Lord Chancellor, was, for the present, chased from office—though destined hereafter to have his revenge, by actually putting the Great Seal into the hand of Lord Lyndhurst.

Lord Eldon was known to have had a narrow escape in the late crisis, and his official life was for some time considered very precarious. Of the public opinion upon this subject we have a striking proof in the result of an election for the office of Chancellor of the University of Oxford. Had a vacancy in this office taken place when he was understood to be firmly seated on the woolsack, he must have succeeded to it as a matter of course, combining every possible qualification for it—academical distinction—unspotted private character—high church-and-king principles—and a steady opposition to any relaxation of the laws against Roman Catholics or Dissenters—with the prospect of long continuing to dispose of ecclesiastical dignities. At present, the last and not the least essential was wanting. The "G. and G. negotiation" was well known, and many thought that within a few weeks Lord Grenville would be at the head of the Treasury, with Lord Erskine, or Sir Samuel Romilly, as Lord High Chancellor. In this posture of affairs died the Duke of Portland, Chancellor of the University of Oxford, and Lord Eldon and Lord Grenville were started as candidates to succeed him. The King said, "it would be hard if Cambridge had a Unitarian Chancel-

lor," and Oxford a Popish one." This was a strong declaration against Lord Grenville for his advocacy of Catholic emancipation, and Lord Eldon construed it into a pledge to support himself—which he evidently thought had been violated. For some unexplained reason, a party at Court brought forward the Duke of Beaufort, a very respectable nobleman, but having nothing to recommend him except his high lineage, and that he kept near Oxford the best appointed pack of fox-hounds in all England. On this occurrence Lord Eldon wrote to a friend:—

"After it was fully understood that the Duke of Beaufort had refused to be a candidate, and some of his nearest connections had canvassed for me, he has become a candidate. This makes confusion more confused; but I shall stand it out, as I have consented to stand—for I cannot be made a fool of with my own consent; and therefore, if both the D. of B. and I go to the wall, and Grenville succeeds, my consolation is that I am not to blame."

At the close of the poll the numbers were, Beaufort, 238; Eldon, 393; Grenville, 406. Lord Eldon was more hurt by this disappointment than by any he ever experienced in his life. He declared that he had been atrociously ill used; he suspected that even the King had betrayed him, and he loudly blustered about resigning the Great Seal—of course, without for a moment having had any such intention. The worst of it was, that, in virtue of his office of High Steward of the University, he ought to have officiated at the inauguration of the new Chancellor. Thus he poured forth his grief in a letter to Sir William:—

"I have written to the King, to know whether any part of my conduct could justify the Oxford reports, that I had not his support, or that he was hurt that I did not give way to Beaufort. From him I have had a satisfactory letter. * I still think that I can't remain (with the public opinion that I have not been supported) where I am; and I persuade myself that if I feel compelled to retire from my great office because I don't choose to sacrifice the pretensions of a man long labouring for the public, to a fox-hunting Duke, I shall not fail to have your approbation. I have received a letter from the Duke of Richmond, in answer to a complaint of mine, that he had no reason to believe I had the support of Government!!! As to what I am to do about the High Stewardship, I am willing to pause: but, upon looking into the statutes and my oath of office, I may be called upon to do what I never will do. The short result seems to me to be, and perhaps the best result, that a

* The Duke of Grafton, then Chancellor of Cambridge, openly attended the Unitarian meeting-house in Essex Street.

few weeks will send me to dear Encombe as a resting-place between vexation and the grave."

He asserted that, the Duke of Beaufort's committee had turned the election by voting against him; and in a letter to his daughter-in-law he said, "Aristocratic combination beat me, and without combination it could not have hurt me. Of private ingratitude I have seen much, that gives more pain than the gout. Ingratitude bites hard."

Among the ungrateful, it is pretty clear that in his own mind he numbered George III., whom he considered indebted to him for still wearing the crown. The King's letter to him, if his Majesty was quite sincere, ought to have appeased him:—

"Windsor Castle, Dec. 16th, 1809.

"The King has received the Chancellor's letter, and sincerely concurs with him in lamenting the issue of the contest at Oxford, both on public grounds, and from motives personal to the Chancellor. His Majesty desires the Chancellor will feel assured that he has approved his conduct throughout the whole course of this business, as well by allowing himself to be named a candidate, and as continuing so to the close of the poll: his Majesty being very sensible that he could not, with honour or with advantage to the general cause, retire, after his friends had been engaged to support his well-founded pretensions.

"GEORGE R."

Notwithstanding his professions of entire belief in the King's good faith, the following letter to Sir William, I think, indicates that suspicions on the subject still haunted his mind, and that he was reconciled to the notion of retaining the Great Seal chiefly by considerations that this course was for his own advantage:—

"If I doubted the King's good faith, I should not hesitate one moment; but considering what we were pledged to, with reference to *him*, before this unfortunate business was engaged in,—to stand by him on *his* account, and on *that only*,—if he has kept good faith, I doubt whether I can contribute to the *immediate* destruction of the Administration by my resignation, and whether then I shall not be told that I have ruined the K., as I have ruined the D. of B., more especially as the question of its existence, if I remain, is probably a question of a week or a fortnight. Independent of this, all my own reasoning, and every fact you state to me, make resignation the step I ought to take; and this I must discuss with you when I see you.

"Yours,

"ELDON."

It required little persuasion on the part of Sir William to drive away this fancy of resignation, by which the Chancellor himself could not have been for a moment deceived, for he would quite as soon have put a voluntary end to his natural as to his official existence.

As long as George III. was able to execute the functions of government, Lord Eldon served him zealously and faithfully, and perhaps their friendship did not suffer any abatement; but I do not subsequently find any marks of fond intercourse between them as in former times, and the Chancellor now began to strive gradually to insinuate himself into the good graces of the Prince of Wales.

Certainly the situation of Mr. Perceval's new Ministry seemed very inauspicious. It had serious dangers to encounter from the distractions which still prevailed in the Tory party, and it had to undertake the defence of the Walcheren expedition, which was not more disastrous than ill-planned,—while the Orders in Council were rapidly tending to involve us in war with America.

The last session of Parliament held while George III. actually sat upon the throne began in January, 1810, A.D. 1810. and was very tempestuous. Lord Eldon was suffering from ill-health, and he took no part in the debates respecting the Walcheren expedition and the warlike operations in the Peninsula; but he was forced up to oppose a bill which the House of Commons had passed to forbid the granting of offices in reversion. He said: "Sir Matthew Hale, who would ever continue to be considered as an ornament, if not an oracle, to the profession to which he had belonged, had, he knew, highly disapproved of reversions,—as had Lord Coke. But still, their authority was not to be decisive of the question. We ought to be cautious how we meddled with a system which had been the practice of the Constitution for three centuries. He did not deny that some good might be effected by judicious regulation,—by the curtailment of emoluments in some cases, and by their total abolition in others. Without inquiry, however, it would not become their Lordships to legislate upon the subject; and no inquiry, he believed, would warrant the House in going to the length proposed in this bill. Whatever the censure which he might incur for his dislike to innovation, he never could consent to legislate in the dark; but he protested against being considered as the enemy of all reform, merely because he was

averse to reform which he could not understand. He had himself procured reversions for members of his own family, as former Chancellors had done,—and certainly without the smallest conception that he was doing any thing of an objectionable nature. Having done this, he now desired to avow it; though certainly the value of the offices so bestowed by himself, altogether, was not sufficient to make the validity or invalidity of the gifts a matter of any great uneasiness to the expectants." The bill was thrown out by a majority of 100 to 67."

The Chancellor was next alarmed by a bill of Sir S. Romilly's, which had passed the Commons, to abolish the punishment of death for the offence of privately stealing in a shop to the value of 5s. Commenting upon a very just observation, that "certainty is of more importance than severity of punishment, with a view to deter from the commission of crimes," he chose to represent that those who were for mitigating the severity of the penal code wished that each offence should invariably be visited by the same degree of secondary punishment,—whereas they only contended that the highest punishment that it would be proper to inflict in any case should be defined—leaving extenuating circumstances still to have their due weight. After contending for the necessity of some discretion being left in the judge, he said, "I remember a whole family indicted before me for stealing a single sheep. It was a case of peculiar hardship. These poor people were driven to the commission of a capital crime by the pressing calls of famine—exhausted nature, no longer able to bear the restraint of human laws, threw aside every consideration of honesty, and these unhappy wretches committed an offence which subjected them to a capital punishment. Now, my Lords, no man living could say that this was a case where the judge should have no discretion. There is no man living who could go through such a trial without feeling that he should commit a greater crime than the unhappy wretches themselves, if he permitted the law to take its course.—I shall now mention a case where the principle is applicable the other way. It likewise occurred before me, during the short time I had the honour to be Chief Justice of the Common Pleas. A man was indicted for stealing a horse, of the small value of 7s. 6d., and which he had sold for that sum to a horse-butcher. The jury found him guilty, and you will be surprised perhaps to learn, that

for so trifling an offence I suffered the law to take its course. The punishment of death, for this offence only, might appear extremely harsh; but, my Lords, in this instance I was guided by the nature of the evidence in the course of the trial, the detail of which I have now fresh upon my memory. It appeared, I think, that on the prisoner were found skeleton keys of all the turnpike gates within twenty miles of London, which he had manifestly procured for the purpose of carrying on the regular business of a horse-stealer. When we talk of the severity of the punishment, the objection to the law is much diminished by the practice of it: for it is severe only by its frequent execution, whereas in practice its execution is extremely rare. It is needless for us to differ about theories, if the practice reconciles the difference." — He was thus obliged to rely upon the fact that the punishment which the law awarded was not usually inflicted; and he seems to justify the principle that to trespass on a common should be made a capital offence, because the trespasser may have a pistol or a dose of arsenic in his pocket, and ought to be hanged as if convicted of highway robbery or murder. I make great allowance for narrow-minded prejudice; but it would be to confound all the distinctions of right and wrong not to praise the enlightened efforts of Romilly, and not to censure the systematic opposition of Eldon, by which they were long rendered ineffectual. The bill was of course thrown out,—and, for years following, juries went on finding on their oath that goods of the value of 50*l.* were under the value of 5*s.*,—judges pronouncing sentences of death which they never meant should be executed—in a rare instance, perhaps, a cruel or fantastical or careless judge allowing the law to take its course, and bringing great scandal on the administration of justice.*

I have sincere pleasure, however, in coming to Lord Eldon's able vindication, against Erskine, of the right of the two Houses of Parliament to commit for breach of privilege, in analogy to the right of courts of law to commit for contempt. "He appealed to all the judicial authorities, if the process of attachment for contempts was not as much a part of the *lex*

* 17 *Parl. Deb.* 200.

* While I went the Oxford Circuit, a man was hanged at Gloucester by mistake, from there having been some delay in forwarding the reprieve from Hereford. The sheriff, on account of the trifling nature of the offence

confidently expected that a reprieve would come, and delayed the execution to the last minute. It did come when the executioner was cutting down the dead man from the gibbet.

terra as trial by jury. If a similar power were not allowed to the House of Commons, how could they possibly exercise their inquisitorial functions? He asked if Lords Somers, Cowper, Nottingham, or any of the most illustrious of his predecessors, had ever hesitated to commit in cases of contempt? Nay, a case had occurred of a libel upon a decree of his noble and learned friend (Erskine) when holding the Great Seal, when the distinguished champion of 'trial by jury' himself committed the parties—a husband and his wife, with their attorney—to the Fleet; and very rightly, for they had all joined in composing, printing, and publishing the libel."⁴

The only other subject on which he spoke during the session was one on which I always read his speeches with entire respect, although I do not agree in their reasoning,—for they were spoken with perfect sincerity as well as seeming earnestness, and many most enlightened men continued to share with him the sentiments which he expressed. The Earl of Donoughmore having moved that a petition from the Irish Catholics should be referred to a committee of the whole House, "The Chancellor declared that he was too sensible of the blessings of civil and religious liberty which the country enjoyed to risk them on a speculation of which no one could inform him the grounds. He would continue to support the Protestant Church as by law established, although he might be called a bigot or a monk. He did think it but reasonable to inquire, before going into a committee, what it was intended to substitute in the room of those sacred outworks and bulwarks of the Constitution thus asked to be removed. At present they knew not even what terms the petitioners would be pleased to accept. The proposed Veto he considered nothing. That, and other securities talked of, could not be conscientiously agreed to by the Roman Catholics, and dishonest men could not be good subjects. The penal enactments against them were not framed to disqualify for religious opinions, but to guard against the political consequences necessarily connected with that faith which acknowledged a foreign supreme authority. He could never consent, on mere speculation, to tamper with the actual state of happiness the country enjoyed—a state of happiness from which the Irish Catholics were not excluded—and which for a century and a half had rendered us the envy of the world. He would not interfere with this in the dark, or go into a committee, in which, for

⁴ 17 Parl. Deb. 591.

ought he yet knew, propositions might be made which would render the Protestants in a few months as much the objects of commiseration to the noble Earl as the Catholics were at present." However, there was now a minority of 68 to 154,^a and hopes were entertained that the relief prayed for would soon be granted from a sense of generosity and justice—as a boon,—instead of being deferred till it should be extorted by combination and violence, when it would lose half its value, and would lay the foundation of future perils to the empire.

CHAPTER CCI.

CONTINUATION OF THE LIFE OF LORD ELDON TILL THE PRINCE REGENT
FOR EVER RENOUNCED THE WHIGS.

In the latter part of the year 1810 it again seemed as if Lord Eldon's official career were certainly drawing to a close. All attempts to induce Lord Castlereagh to join Mr. Perceval had proved ineffectual; and the Whig Opposition, led by Lord Grey and Lord Grenville, was becoming more and more formidable. But an event which was expected to precipitate the fall of the Tories, in the result kept them in power many years. Though they could not have stood much longer under their old patron, George III., they became irresistible under the Regency of the Prince of Wales, who was as yet believed to be impatient for an opportunity of crushing them.

Parliament stood prorogued to the 1st of November. Before that day arrived, his Majesty was labouring under such a violent paroxysm of mental malady as to render it utterly impossible for the Chancellor to pass a commission for opening the proceedings of the session, or ordering a further prorogation. From former experience we may conjecture that if this bold functionary could have obtained the royal signature to the commission, he would have considered himself justified in acting upon it, without trying the royal competency upon the principles which decide the validity of the deeds and contracts

^a 17 Parl. Deb. 404—440.

of private individuals;* but, at an interview which he had with the King, at Windsor, on the 29th of October, to see whether there could not be some arrangement for the march of public business without an open disclosure of the calamity with which the nation was again visited, he found his Majesty under physical restraint in the custody of Dr. Robert Willis and other physicians, and the notion of proceeding by a commission signed by him was necessarily abandoned. The difficulty of treating with him where writing was required was much increased by the circumstance that his eyesight had been long decaying, and that he was now nearly blind.

On Thursday, the 1st of November, the House met, and the Chancellor concluded an explanation of the circumstance of there being no commission by saying, "It remains for me to state that the indisposition of his Majesty has arisen from the pressure of domestic affliction operating upon his paternal feelings; and I have the satisfaction to add, that a confident expectation is entertained of his Majesty's speedy recovery." The King had been much affected by the illness and death of his favourite daughter, the Princess Amelia; but the physicians, when examined before the Privy Council, said that "they could not ascribe his former attacks of the same sort to any particular cause."² The House adjourned for a fortnight, and the Lord Chancellor addressed letters to all peers, requiring their attendance.^a At the end of that period, on his statement that the physicians were sanguine in the hope of his Majesty's speedy recovery, although he had actually been supposed to be dying, a farther adjournment of a fortnight was agreed to. In answer to an insinuation that a commission

* It would have been but a small liberty to have passed this commission, for there had been an order made at a council, at which the King presided, to prorogue Parliament from the 1st to the 29th of November, and to prepare a commission for this purpose.

¹ The following touching note from Queen Charlotte to Lord Eldon shows that he had in vain tried to see the King again before going to the House of Lords:—

"Windsor, Nov. 2nd, 1810.

"The Queen feels, more than she has words to express, the attention shown her by the Lord Chancellor and his colleagues, in making an excuse for not calling upon her yesterday. She is perfectly sensible that the subject it related to would have been equally

painful to both parties; and is highly sensible of the delicacy of the conduct of the Lord Chancellor, Marquis of Wellesley, and Mr. Ryder, to whom she begs her compliments.

"Our domestic misfortunes are truly severe; but I trust Providence will carry us through.

"CHARLOTTE."

² There used to be a strong disposition to impute the King's illnesses to excitement, produced by his resistance to Catholic Emancipation; but in 1765, in 1788, and in 1810, he was struck by the malady when Catholic Emancipation was not talked of, and when his Government was going on very smoothly.

^a 18 Parl. Deb. 1.

might have been produced for proroguing Parliament, Lord Grey said, that "if Ministers had ventured to do any act which, by the Constitution can only flow from the personal exercise of the royal functions, they would have merited the strongest reprehension of every reflecting man, and that the indignation of the whole country would have been most justly excited."^b At the next adjournment the Lord Chancellor excused himself for not affixing the Great Seal to a commission without having the sign manual of his Majesty—darkly hinting that he might have done so. "If he had acted wrong," he said, "he wished their Lordships to decide. He had acted unquestionably according to his conscience, and *that* told him he had acted as he ought. Their Lordships would bear in their recollection that the monarchy was hereditary,—that the King of this country was King in his infancy—his old age—in health and in sickness; and if they should transfer the exercise of the royal functions from him, they did away with his authority altogether."^c There was a division on the motion for a further adjournment, which was carried by 88 to 56.

The Whigs, confident in the delusive hope that they were to step into office as soon as a Regency Bill passed, were for pushing on proceedings as expeditiously as possible; and the Ministers, with equal certainty considering this as their death warrant, struggled to defer it by all practicable delays.

At last, committees of both Houses were appointed to examine the King's physicians,—when some very curious information was elicited respecting the present and former illnesses of his Majesty, and the manner in which his Ministers had communicated with him.^d

The mode of proceeding to provide for the exercise of the royal authority being debated, the Chancellor strongly argued for following the precedent of 1789, and declared that "for his own part, as the Great Seal was entrusted to him by his Majesty, he therefore would not give it up till he knew that some one was legally appointed to receive it out of his hands."^e He denied that the Prince of Wales could have any right to govern during his father's lifetime; he maintained that the office of Regent could only be created by Act

^b 18 Parl. Deb. 6, 14; 18.

^c The vice of this reasoning is, that it regards only the individual supposed to be on the throne,—utterly forgetting the hereditary

nature of the office, and the purposes for which it exists.

^d 18 Parl. Deb. 75—229.

^e *Ib.* 459.

of Parliament; and declared that any address of the two Houses to the Prince of Wales, asking him to exercise the prerogatives of the Crown, would be treasonable.^f

Nevertheless, all the Princes of the blood royal (including the Duke of Cumberland) joined in a solemn protest against these proceedings, "as perfectly unconstitutional, and subversive of the principles that seated their family upon the throne of these realms." This was forwarded to the Chancellor with the following note:—

"Thursday (Dec. 20th).

"MY DEAR LORD,

"I cannot without feeling *the greatest regret* enclose to you a paper signed, as you will see, by ALL of us: not from its contents being contrary to the bearings of my mind, which has, God knows, been occupied for some time upon this unfortunate calamity, but from there appearing a difference of opinion between yourself and myself; and I believe you cannot doubt, if ever one man is sincerely attached to another from having the highest veneration, esteem, and, I may add, a sort of filial love, that man is myself, and it is therefore a most painful task for me to differ on this occasion; but I hope and trust that this will be the *only* time. For the hurry and bad writing of this note excuse me, but I am anxious you should receive this as early as possible.

"Believe me,

"Yours very sincerely,

"ERNEST."

While this discussion was pending, an incident arose which very strikingly showed how the two Houses of Par- Jan. 5.
liament were usurping kingly power. An issue of 1811.
money was wanted from the Exchequer for the army and navy, and it could not by law be obtained without the royal sign-manual. Lord Eldon, the prop of the monarchy, and the stickler for ancient rules, joined in a resolution of the Lords and Commons,^g by which the money was ordered to issue, even without going through the form of forging the King's signature.^h

At length the "phantom" appeared; and while the unhappy King was universally known to be under necessary coercion, and wholly unconscious of what was passing beyond the walls of his own apartment in Windsor Castle, the Lord Chancellor ordered the Commons to be summoned, to hear read a com-

^f 18 Parl. Deb. 713.

signed by all the Royal Dukes.

^g A protest against this resolution was

^h 18 Parl. Deb. 796.

mission which he had received from his Majesty; and, when they had arrived at the bar, he thus proceeded:—

“My Lords and Gentlemen: Forasmuch as for certain causes his Majesty cannot conveniently be present here in his royal person, a commission has been issued, under the Great Seal, authorising the Lords in the said commission named to declare the causes of your meeting, and to do, in all respects, in his Majesty’s name.” He then, “by the authority in his Majesty’s commission, and in his Majesty’s name, called their attention to the afflicting circumstance of his Majesty’s indisposition, and to the necessity of making due and suitable provision for the care of his Majesty’s sacred person, the maintenance of his royal dignity, and the exercise of his royal authority, in such manner and to such extent as the exigency of the case appeared to require.”¹

When the Regency Bill came up from the Commons, and the clause was discussed vesting the patronage of all the household offices in the Queen, Lord Lansdowne moved, as an amendment, that the arrangement of those offices should be made by a separate Act of Parliament, to be subsequently passed. This being strongly opposed by Lord Liverpool, Lord Grey sharply assailed the Chancellor, who was supposed to be trying to defeat a previous resolution which, against the strenuous efforts of the Ministers, the Lords had passed,—“That the Queen’s authority should be limited to the sole direction of such portion of his Majesty’s household as should be deemed requisite and suitable for the due attendance on his Majesty’s sacred person, and the maintenance of his royal dignity,”—saying, that “the effect of the enactment in its present shape would be to give the Queen about forty-seven appointments, and the Regent only two. The noble Lord, he believed, was actuated by conscientious feelings; the frequency of his appeal to those feelings was evidence of their sincerity, and he besought him, therefore, to indulge the same honourable sentiment in the discharge of his political, as he was proverbially accustomed to do in his legal and judicial, functions. Suppose the case (and he put it directly to the noble and learned Lord, who had high judicial duties to perform in another place) of a person deceased, by whose will a portion of the estate was directed to be applied to the support of the aged widow, while the remainder was to devolve to the eldest son, for the general purposes of maintaining himself and the members of the family in the rank and station to which they belonged. Would the noble and learned Lord

interpret the intention of the testator to be, that forty-seven shares (for that was the proportion of the household to be given to the Queen) should belong to the widow, and two to the heir? With respect to that part of the bill which provided for the resumption of the royal authority upon his Majesty's recovery, he would say that no one—not even any of the noble lords on the other side of the House—would more sincerely rejoice at the arrival of that period than himself; but he must have other authority for the fact of such recovery than the mere putting of the Great Seal to a commission in his Majesty's name. Considering what had taken place on two former occasions, when it was notorious that the Great Seal had been employed, as if by his Majesty's command, at a time when he was under the care and actual restraint of a physician, for a malady similar to that by which he was now afflicted, the noble and learned Lord must excuse him for saying there must be better authority produced than *his* declaration, for his Majesty's recovery. Nothing short of an examination of the physicians by their Lordships could afford that proof of it which would satisfy his mind."

The Lord Chancellor left the woolsack, and said,—

"The allusions of the noble Earl were so marked that he could not suppress the feeling they had excited, nor omit to take the earliest opportunity of answering them; and he trusted, therefore, that the committee would pardon him for trespassing on their attention. If he had occasionally referred to the rule of his own conscience, it was because that was the rule by which, from the outset of his public life to the present hour, he had endeavoured to regulate his conduct. Confident in the probity of his intentions, and assured of the integrity with which he had laboured to perform his official duties, both to the Sovereign and the public, he would now repeat that he not only did not decline, but distinctly challenged, the strictest inquiry into his conduct. Nor would he scruple to declare that no fear, no influence of any kind, should deter him from doing again what he had already done, if he conceived it necessary to the interests of the King his master, or of the country at large. Of his Majesty he never could speak without gratitude for the favours, the obligations, the King had heaped upon him; nor think without the acutest sensibility of that unhappy malady by which his Sovereign was oppressed. Reports of physicians should not operate, nor threats within or without the doors of that House, to prevent him from exercising his own judgment in whatever regarded the interests of his royal master. Rather than desert his allegiance by shrinking from any step pointed out to him by his duty and his office, he would bear to perish ignominiously on the scaffold. In every case which might arise, he would act upon his official responsibility, and content himself

with leaving the consequences to Heaven. In what he had done upon the occasion alluded to by the noble Earl, he had pursued, under the solemn obligation of an oath, the course which his judgment prescribed to him. He felt himself, therefore, superior to the uncalled-for imputation of the noble Earl; and, until his country should tell him he had done wrong, he should rest satisfied with his own conduct in that matter. No man was entitled to charge him with a criminal act. He had long and faithfully served a most gracious master, at the most critical moment this country had ever known." After praising his own exertions to put down treason and sedition, which, with the personal character of the Sovereign, he said had saved the country, he thus continued:—"Into the transactions of 1801 and 1804, I again say that I challenge the strictest inquiry. The opinions of physicians, though entitled to great attention, are not to bind me absolutely; I must act, and I have always acted, on my oath and to the best of my own judgment: charges, therefore, and menaces are indifferent to me. Let them come,—I am ready to encounter them: *impavidum ferient*. To the daily scandal poured out against me, I will not condescend to reply; nor will I ask of the noble Lord to trust me. I have been attacked and reviled; but I disregard it. Actions which I have never done have been imputed to me, and actions which I have done have been swollen and distorted by misrepresentation and calumny. In the newspapers I may read to-morrow, as I have often read before, sentiments and expressions attributed to me of which I am totally unconscious; but all this I can view without pain. I never refer to those diurnal publications without discovering errors and misrepresentations as to myself; but the consciousness of rectitude and integrity is sufficient to sustain my equanimity. I have been significantly asked whether I would supersede a commission of lunacy against the opinion of physicians. *I have often done so.** Perhaps I may have been wrong in so doing; but again I repeat, I have acted on my conscience. With respect to the clause now under consideration, I will say, using an expression which I borrow from one well skilled in the science of human nature, that I know not how 'to disquantity the train'^m of my royal master. I am asked what I would do in the Court of Chancery if the present clause came before me in connection with the resolution on which it is founded? I answer, that the resolution is not of such certainty that a Court could deal with it at all. If I am asked my own view, I say that I deem *the whole* of the household to be 'requisite and suitable for the due attendance on his Majesty's sacred person and the maintenance of his royal dignity:' those are the words of the resolution,—and therefore, according to the principle of that resolution, *the whole* of the household ought, in my sin-

* A seemingly bold assertion; but I think the true meaning must be, that he superseded commissions of lunacy, some physicians sweating that the party was still a lunatic, while others, on whose judgment he more relied, swore to a perfect recovery.

But the King's physicians, whom he rather tries here to depreciate, although eager to give the most favourable account possible, had unanimously agreed in his Majesty's incompetency.

^m King Lear, Act I. Scene 4.

cere opinion, to be in the gift of her Majesty. In saying this, I speak with the same tender regard to conscience as if I were acting in a judicial capacity. I will tell this House,—I will tell every man who hears me,—I will tell all his Majesty's subjects,—that the last thing I would do in the Court in which I sit would be to remove from any man, labouring under an affliction such as has unhappily befallen his Majesty, the comforts which become his condition, and to which he has been accustomed. For myself, let me but see my Sovereign well, and then let me depart in peace. I cannot take my heart out of my breast and forget that my most gracious master is a man. Let those who can do so, do it. I am not made of such impenetrable stuff; I have neither the nerve nor the apathy requisite for such stern and unrelenting duty. Until his Majesty shall vacate his throne by descending into his grave, to no other person shall I acknowledge myself a subject. Before I sit down, I must make my solemn protest against the principle upon which the proposed distribution of the household patronage is argued; as if the government of this country could not be carried on, except upon a system the most unconstitutional, the most degrading, and I will even say the most Jacobinical, that was ever suggested by the most inveterate enemies of the Constitution. What! are your Lordships to be told that no Master of the Horse, no Groom of the Stole, no Lord Steward of the Household, has the least consideration for the country,—but that their votes in this House will be controlled and directed by those to whom they owe their respective appointments? If this be the case, I have got, at the end of my life, into such company as I never was placed in at the beginning of it. But I cannot believe that the noble persons about me—the descendants of those whose virtues and talents adorn the history of this great country—can be influenced by the unworthy motives thus ascribed to them. The Regent, to be sure, will be subject to restrictions; but the King himself, in this country, is a limited monarch. His Majesty, whatever his mental state, must be King until he descends into the grave. I can never discharge it from my recollection, that the Committee has two objects to accomplish: it has to provide for the stability and security of the government; but it has also to provide for the safe and effectual resumption of the royal functions on the part of his Majesty, whenever his recovery shall be fully ascertained. I feel the importance of the former consideration; but I feel also that, in taking care for his Majesty's restoration to his government, we are providing in the most effectual manner for the true interests and for the ultimate security of the state. Your Lordships, therefore, should not diminish the splendour that surrounds his Majesty, but preserve it in all its plenitude. I remember, and with a satisfaction which will terminate only with my life, the part which I took in the discussions of 1789: I will act on the same principles now. My conduct on that occasion obtained for me the approbation of my gracious master, as I trust will my conduct in the present crisis. I have no reason to change the opinion which I gave in a former debate respecting the probabilities of his recovery. Far from it: for, in addition to what I then said, I have now

the satisfaction of acquainting the House that his actual state gives increased expectations of that happy result. I am not ambitious of continuing in place; I am incapable of entertaining any interested views at such a period as the present." The report states, that "he concluded a speech, delivered throughout with peculiar solemnity of manner, by repeating his regard and veneration for his Majesty, and his intention to oppose the amendment."^a

In spite of these arguments, and the hardy announcement of the improvement in his Majesty's health which was calculated to have still greater weight, the amendment was carried by a majority of 107 to 98.^o

Three days after, the Chancellor, feeling that he had been rather damaged in his rencontre with Lord Grey, took the opportunity of an amendment being moved by Lord Grenville for the purpose of accelerating the determination of the restrictions on the Regent, to renew his defence:—

"I repeat my denial," said he, "of the charge with which I was assailed on a former evening. There are many noble lords now present who well know how complete a justification I possess against all the accusations aimed at me. Nay, some of those who formed part of an Administration with me, and acted with me then, sit now on the bench with my accusers, and must be convinced that all I said in my vindication is strictly true. What I did, I did with the concurrence and with the approbation of all my colleagues; but I would have done it, even had I differed from every man among them. Nay, I say that, acting conscientiously, so help me God, I could not have done otherwise than I did. Whilst I have the approbation of my own conscience, I am ready to incur every risk, and submit to all the responsibility to which I am exposed by the faithful discharge of my duty. But what, I will ask, is the nature of the crime imputed to me? Why, that on the occasions in question I acted in obedience to his Majesty's commands. What would the noble Earl (Lord Grey) have thought of my conduct, if I had refused compliance? What kind of crime would the noble Lord have held me guilty of, if I had dared to disobey the positive commands of the Sovereign? I acted then upon my conscience, and to the best of my judgment: my rule of conduct is the same on this occasion. I will act on my oath, in despite of the opposition of the whole world. It is my opinion, so help me God, that there is a most material amendment in his Majesty. It is little more than forty-eight hours since I had an opportunity of ascertaining this improvement;^p and I trust in

^a 18 Parl. Deb. 1016.

^o 18 Parl. Hist. 1026.

^p In an account of the same interview, in a private letter to Sir William, he says,—"I saw the King on Saturday for much more than an hour. He is not well, and, I fear,

requires time. In the midst of this state, it is impossible to conceive how right, how pious, how religious, how everything he should be, he is, with the distressing aberrations I allude to."—Not quite so encouraging!

God that my gracious master will live many years, to be, as he has always been, the benefactor of his subjects."

In delivering this very indiscreet address, which takes a false issue on the fact, Lord Eldon really seems to have thought that he was sitting in the Court of Chancery, and lecturing a young barrister who would not dare to reply to him.

Lord Grey, as might have been expected, rose with calm dignity, and, by an appeal to dates and events which could not be controverted, made good his charge. After taunting him with his delusive language about the King's speedy recovery, he thus proceeded:—

"In performing what I conceive to be my duty to your Lordships and to my country, I am bound to arraign the noble and learned Lord for an offence little short of high treason. In bringing this accusation against the noble and learned Lord, I will not conceal that it is my intention to deal as severely with him as I possibly can; but, at the same time, as justly as the importance of the question and the solemnity of the case require. The rigid and impartial line of public duty I shall strictly observe towards the noble and learned Lord, determined that neither his agitation nor his tears shall deter me from arraiguing him, if I shall find that he has been guilty of what I cannot but consider all but treason. The noble and learned Lord asks, 'What is the designation of that crime which a public servant would commit in refusing to obey the just commands of his Sovereign?' I acknowledge that would be treason to the Sovereign; but with my answer I beg leave to couple another question: What, I ask, would be the character, what the appropriate punishment, of his offence, who, knowing his Sovereign to be actually at the time incompetent,—who, in the full conviction of his notorious and avowed incapacity, and whilst he was under medical care and personal restraint,—should come here and declare that there was no necessary suspension of the royal functions;—who, under such circumstances, should, in his Majesty's name, and under the pretext of his Majesty's commands, put the royal seal to acts which could not be legal without his Majesty's full and complete acquiescence? What, I ask, would be the crime of that man who should venture to take such a course? I do not hesitate to pronounce his offence to be treason against the Constitution and the country.—With respect to the conduct of the noble and learned Lord on those former occasions to which I before alluded, it is now in evidence before your Lordships, that, as well in the year 1801 as 1804, the King's name had been used to public acts, and the royal authority exercised, at a time when, according to the evidence, his Majesty was personally incapable of exercising his royal functions. His Majesty's malady began about the 12th of February, 1801, and continued without remission till the beginning of March. Your Lordships will recollect that councils had been held, and members sworn in, dur-

ing that interval. The foreign relations of the country, too, had meanwhile undergone a material change. Sweden, which had been our ally, assumed a hostile aspect, and acceded to the Northern Confederacy; and even considerable expeditions were equipped and sent out. Subsequent to that date, too, about the 17th of March, another council was held, and members sworn at it. Here I must beg the attention of your Lordships to the circumstance that, about the 14th or 16th of June following, even after he had been declared to be fully recovered, his Majesty had a relapse, which, though it did not last long, required the aid of attendance. All this took place in 1801.—In 1804 I was a member of the other House, and, from the anxiety felt by the public upon the subject, I considered it my duty to put a question to the noble Viscount on the cross bench (Sidmouth), then a member of the other House, respecting the state of his Majesty's health; and, though my noble friend at first endeavoured to shift and evade the question, upon being pressed he ended with saying that 'there was no necessary suspension of the royal functions.' To a similar question put in this House, the noble Lord upon the woolsack returned a similar declaration. Certainly the noble Lord opposite (Lord Liverpool) had made such a declaration, and that was afterwards confirmed by the noble Lord on the woolsack, in this House. Now, by referring to the evidence of Dr. Heberden, your Lordships will find that at that very period his Majesty had been ill, and continued in that state from the 12th of February, 1804, to the 23rd of April following, when, I believe, he presided at a council—a circumstance which most probably was considered as sufficient proof that his Majesty was well enough to resume his royal authority. Within that interval, viz. on the 9th of March, a commission was issued under his Majesty's Great Seal for giving the royal assent to fifteen different bills which had passed the two Houses. But still more—the noble and learned Lord had, on the 5th of March, an interview with his Majesty, in consequence of which he felt himself warranted in declaring to your Lordships that his Majesty's intellects were sound and unimpaired. But will this House consider a hasty opinion, formed during such an interview, which may have taken place at a lucid interval, sufficient to outweigh the evidence, upon oath, of physicians regularly and constantly in attendance? Will you not, on the contrary, be convinced that it would be a direct breach of the Constitution for the highest officer in his Majesty's service to venture, under such circumstances, even during a lucid interval, to take his Majesty's pleasure upon high matters of state? I will put it even to the noble and learned Lord himself, whether, in the case of a private individual, who should have continued, from the 12th of February to the 23rd of April, in a state of lunacy, and might within that period have been induced by an attorney to make a will, that noble Lord would consider such a will valid? If the transaction should subsequently be submitted to the Court of Chancery, what would be the feelings of the Court? what its just reprobation of the conduct of the attorney?—The charge, therefore, which I have to make upon the noble Lord before your Lordships, and in the face of the

country, is this—that he has culpably made use of the King's name without the King's sanction, and criminally exercised the royal functions when the Sovereign was labouring under a moral incapacity to authorise such a proceeding; and with such a transaction in your view, I will ask your Lordships whether you will suffer this bill to pass without making effectual provision to prevent the recurrence of similar circumstances? whether, if you should omit to make such provision, you will perform your duty to the public, whose interest you are bound solemnly to secure and to protect? In the evidence of Dr. Reynolds it appears that, when the King removed to Kew in 1804, he had himself ceased to attend him,—and for this reason, that ‘it would have a better appearance with the public.’ It was also apparent from the evidence, that his Majesty was then, and till October continued to be, in such a state as to require medical attendance. I am prepared also to assert, and challenge the noble and learned Lord to deny the fact, that Dr. Simmons and his attendants had not only been in attendance, but exercised control over his Majesty, until the 10th of June. For my own part, I shall never consent to suffer a Lord Chancellor, a Lord Keeper, or any man, or set of men, however great or distinguished, to possess himself or themselves of the royal authority under such circumstances, and exercise the functions of the Sovereign.”

Lord Sidmouth took upon himself the responsibility of all that had been done in 1801 and 1804; but Lord Moira renewed the charge against Lord Eldon, and contrasted his conduct with that of Mr. Pitt in 1788, who had never once acted in the King's name when the King was incompetent.

Lord Eldon again rose, and said:—

“I cannot forbear to observe how unfair it is to select me individually from the Ministers of 1801 and 1804, and make me the constant object of attack. Noble lords should have done me the justice to state that the course then adopted was upon the opinion, not of myself individually, but of the Administration generally; upon the unanimous opinion, I am proud to say, of many great and honourable men with whom I then acted. I think I could satisfy any candid man of the propriety of my conduct both in 1801 and in 1804. In 1801 I had not been a member of the Government till the 14th of April, when I accepted the Seals in circumstances wherein I could have no motive for it but the commands of his Majesty; and after the 14th of April I knew of no act done which would fall within the objection advanced on the other side. In 1804, several distinguished noblemen, now present among your Lordships, were members of the Cabinet: one of them was a noble Lord opposite (Earl St. Vincent), who was then First Lord of the Admiralty, and who, after being present at the examination of the physicians, concurred with the rest of the Cabinet in the conduct then pursued. The physicians having been all agreed that on the 9th of March his Majesty was fully competent to do the act which they had advised

him to perform, the question now is, whether, under that medical authority, I was right in doing what I did for the transaction of most important business, or whether I ought to have left the country to shift for itself. If I had entertained the smallest doubt of his Majesty's competency to direct a commission for giving the royal assent to the bills which then awaited that sanction, I should have done one of two things : either I should have taken upon myself to affix the Great Seal to that commission and have applied to Parliament for an indemnity, or I should have come to the House and made the same declaration as on the 1st of November, 1810. And, even if the evidence of the physicians had been less decided than it was, I assert it to be most important to the Sovereign that a Chancellor be not wholly determined by medical opinions, so as to suspend the royal authority where he himself thinks the King fully competent to exercise it. It does not follow, because the physicians all concurred in the acts then done, that I am guilty of any inconsistency in saying now, that, whatever might be the report of the King's physicians, I would not consent, on that mere report, to dethrone his Majesty, while I myself, in my judgment and conscience, believed the King adequate to the discharge of the royal functions. I must be permitted to state, that the great man who was then at the head of the Administration (Mr. Pitt) afterwards expressed some surprise when he found that *it had been my fixed resolution never to see his Majesty at any time when he could be considered under the control of others, or in presence of any persons who might be considered as exercising any control over him.* My interviews with his Majesty at that time were always in the absence of such persons ; and it was my firm conviction that I was warranted in the course that was then adopted. I knew the dangers of this proceeding, but I knew my duty too, and had determined to see my Sovereign, and judge of his complaint, when he was as free from restraint as any of his subjects, whom it has been my painful duty to examine under similar circumstances. This was very hazardous to myself ; but I did my duty without being deterred by fear of consequences. His Majesty, on the 9th of March, understood the duty which I had to perform better than I did myself ; this I believe I can prove. If I *did* act wrong, it was with the best intentions, and those will acquit me in the sight of God, if not in the opinion of my country."

Earl Grey, to justify his selection of a particular Minister, on this occasion rejoined, that

"The Constitution of the country always selects for responsibility the individual Minister who does any particular act ; and it was upon this ground that he had singled out the Lord Chancellor from the rest of his colleagues upon a question of affixing the Great Seal. For this he was individually responsible. The Constitution knew nothing of the committee called a Cabinet. Every individual Minister was responsible for his own conduct. If ever the time should come when it might be thought necessary to call the serious attention of the House to the conduct of the noble and learned Lord, the House must

determine simply on the propriety of his conduct, and not upon the purity of his intentions, or the coincidence of other people with his opinions. As to the statement of the noble and learned Lord about his never visiting his Majesty in the presence of persons under whose control he might be supposed to be, he should only observe, that it was not the removal of the persons appointed to control his Majesty from the room in which he saw his Chancellor—it was not their removal from an ante-chamber, that would justify a Minister in acting as the noble and learned Lord had done. The absence of all *idea of control* from his *mind* was necessary, before the Chancellor could have, in his name, exercised the royal authority, and adopted a line of conduct which, in this case, he could consider as nothing less than usurpation. It appeared from the evidence, that from the 12th of February up to the 23rd of April, and even so late as the 10th of June in that year, his Majesty had been attended by Dr. Simmons and his servants, who did exercise a control over the mind of his Majesty. He did not mean to say that this control was constantly exerted, or that those persons were present when the Sovereign was visited by the noble and learned Lord; but there was a knowledge in the King's mind that those persons were in attendance, and could be brought forward to control him whenever it might be judged necessary. If such had been the circumstances in a former case, he should now call upon their Lordships, as peers of the realm, as hereditary guardians of the Constitution and of the liberties of the people, not to suffer this usurpation to pass without taking effectual measures to prevent the recurrence of such conduct in future. On the 7th of May, 1804, at the time his Majesty was thus under control, the union of the two great political rivals (Mr. Fox and Mr. Pitt) had been in contemplation, but had been prevented. This too was a subject for serious consideration."

Lord Grenville's "amendment being negatived by 139 against 122,¹ the clause appointing the Queen's Council came next,—when Lord King formally moved the omission of Lord Eldon's name:—

"The noble and learned Lord," he said, "had been repeatedly charged, in the course of these debates, with a violation of his duty as Lord Chancellor. After the unanswerable manner in which the charge had been established against the noble and learned Lord, it was unnecessary to enter into the subject farther than simply to repeat that it had been proved by the evidence of the King's physicians, taken on oath, that in 1804 his Majesty's illness had continued from the 12th of February to the 23rd of April, in which interval the Great Seal was affixed to two commissions, one dated the 9th, and one the 23rd, of March; and that

¹ 18 Parl. Deb, 1804. * I have been told by a peer who was present at this debate, that Lord Grey having called Lord Eldon on one occasion his "noble and learned friend,"

Lord Eldon interrupted him, and said, "How can any one call me *friend* who charges me with such villany?"

the Lord Chancellor had also signified his Majesty's consent to the Duke of York's Estate Bill, being a public bill affecting the interests of the Crown. The noble and learned Lord, having thus, in consequence of his own erroneous view and strong bias, been instrumental to deceive the House and the country in 1804, was an improper person to be placed on the Queen's Council, because, if appointed to a seat in it, he, from his high station and legal character, would be the party to decide on the competence of the Sovereign."

Hansard represents that Lord Eldon remained silent, and merely gives the numbers when the House divided; but I have been informed by a gentleman who was then standing on the steps of the throne, "that his Lordship, in spite of his usual self-command, was thrown into a transport of passion; that he spoke some words in an angry tone, which were hardly intelligible; that it was an affair only of a few moments, and that, not having time to cool, he rashly called for a division,—thinking that Lord King would walk below the bar alone."

The CONTENTS were 54!!! the NOT CONTENTS 129; and a most bitter protest, fully reciting the evidence of the physicians, and the acts of parliament passed while the Sovereign was incompetent, was signed by Lord Grey, Lord Lauderdale, Lord Holland, Lord Erskine, and other Peers.'

In the House of Commons, too, a violent attack was made on Lord Eldon by Mr. Whitbread for having usurped royal authority during the King's incapacity, particularly in the year 1804. His Lordship complained of having been feebly defended by his colleagues; but there was a majority in his favour of 198 to 81."

These assaults upon him were greatly encouraged by the extreme sensibility he exhibited under them. Soon afterwards he said to Lord Sidmouth,—“I am like a thing that is raw; why am I thus singled out?” “First,” replied his Lordship, “because you are eminent; and, secondly, because you are sore.”*

* 18 Parl. Deb. 1086.

* My informant adds,—“I was next to Mr. Hand, the purse-bearer, who was greatly disturbed by his master's temper so completely getting the better of his judgment.”

* 18 Parl. Deb. 1031—1087. In the midst of this badgering he thought himself very ill-used, not only by the Opposition, but by his old colleagues and by the royal family. Thus he wrote to his brother, Sir William—“I am hardly in my right mind upon what is

passing; and when I am attacked day by day, and every man who was with me in Administration in 1804 is obstinately holding silence, and the whole royal family, whose protestations of gratitude my boxes teem with, are among my enemies, God help me, if I had not the means of proving that I have nothing to fear.”

* 19 Parl. Deb. 87.

* Life of Lord Sidmouth, iii. 37.

The recollection of these scenes caused to Lord Eldon a distress of mind which shows that he possessed much more sensibility than he had credit for with those who thought that he cared for nothing but present power and emolument. When years had gone by, he was walking with a contemporary, likewise a high dignitary in the law, to whom he said, "No doubt the world regard me as a prosperous and happy man: *the prosperity* I admit; but the *happiness* I deny." Being asked to explain how he could be unhappy in the midst of all his prosperity, he alluded to the division on Lord King's motion, saying, "It makes me very unhappy, as I fear it will lead posterity to entertain a very unfavourable opinion of my conduct and character."

I think Lord Eldon would have done better by resting his defence on the necessity of the case, and the difficulties and evils which must have arisen from following a contrary course. The fact that he did allow the King to sign commissions for passing bills,—to swear in privy councillors,—and to do other important acts of state, when his Majesty was wholly incompetent from mental disease, was before abundantly clear, but is now placed beyond all controversy by the correspondence upon the subject recently communicated to the public. For example, the period beginning from the 14th of April, 1801, is one of "the two fits of insanity," in which Lord Eldon, in his letter on the dissolution of Parliament in 1807, says that he "attended him." But I must repeat my humble opinion, that between the acts of an English sovereign, for which there is always a responsible adviser, and the execution of a deed, will, or contract by a private individual, there is no strict analogy; and that, "regard being had" to all the circumstances of the case, both in 1801 and in 1804 Lord Eldon deserved well of the country by assuming the competency of the King, instead of suspending the functions of the executive government, conjuring up "the phantom," and having debates on a Regency Bill, which would have been stopped before they had made much progress by the King's entire recovery. Indeed, those ought to be the least scrupulous who think that the constitutional mode of proceeding upon such an emergency is for the Heir Apparent

† The gentleman from whom I have the above anecdote shrewdly adds,—"This may have been the indulgence, without any apparent motive, of his habit of canting; but if it contains any portion of truth, it proves that he was not like some we have known, who seem at least to be reckless of reputation, present or future."

to take the regency upon himself as a matter of right—until the moment arrives when the afflicted Sovereign may be properly superseded. Any such attempt at either of the periods in question to vest in the Prince of Wales the exercise of the prerogatives of the Crown would have produced civil war.

The Regency Bill having passed both Houses, the Great Seal was put to a mock commission for giving the royal assent to it; and the Lord Chancellor, with other dignitaries named in it, having summoned the Commons to the bar, he said, "My Lords and Gentlemen, by the commands, and by virtue of the powers and authority to us given by the said commission, we do declare and notify his Majesty's royal assent to the Act in the said commission mentioned, and the clerks are required to pass the same in the usual form and words." Accordingly, the Deputy Clerk of the Crown having read the title of the Bill, and the clerk-assistant of the Parliaments having bowed to the empty throne, the words were shouted out, "*Le Roi le veut*," whereupon the Regency² was established.

² 18 Parl. Deb 1124.

At the end of the rule of George III., I may appropriately introduce Lord Eldon's opinion of him, and some anecdotes respecting him, as related to me by a gentleman who lived with Lord Eldon on the most familiar terms for many years.—"He often declared, upon his honour, that he thought his old master had more wisdom than all his Ministers conjointly,—an opinion which I have heard him support by declaring that he could not remember having taken to him any state paper of importance which he did not alter, nor one which he did not alter for the better. But it ought to be added, that this opinion of the superior wisdom of George III. was qualified by the addition, 'Not that I mean to assert that he would have been more wise if his opportunity of gaining knowledge had not been greater than that of any of his servants. But what is the experience of the oldest of them in comparison of his? And though his manner of stating the result of that experience is calculated to mislead casual observers, yet those who will divest his matter of his manner must come to the conviction that it has been gathered by long and laborious application of powers of no ordinary strength.'"

"After the King's mind had become a wreck, and when its native strength could

be traced only by the 'method of madness,' Lord E. would sometimes describe it, after he had been at the Queen's Council. The following is an instance of this, of which I retain a perfectly clear recollection.—It was agreed, he related, that if any strong feature of the King's malady appeared during the presence of the council, Sir H. Hatfield should, on receiving a signal from me, endeavour to recall him from his aberrations; and, accordingly, when his Majesty appeared to be addressing himself to two of the persons whom he most favoured in his early life, long dead, Sir H. observed, 'Your Majesty has, I believe, forgotten that — and — both died many years ago.' 'True,' was the reply, 'died to you and to the world in general; but not to me. You, Sir H., are forgetting that I have the power of holding intercourse with those whom you call dead. Yes, Sir H. H.,' continued he, assuming a lighter manner, 'it is in vain, as far as I am concerned, that you kill your patients. Yes, Dr. Baillie;—but Baillie—Baillie,' pursued he with resumed gravity, 'I don't know. He is an anatomist, he dissects his patients; and then it would not be a resuscitation only, but a re-creation; and that, I think, is beyond my power.'"

"After his Majesty had, in 1807, changed the Ministry which was so unpalatable to him, I re-appearing as Chancellor in my former official attire, the King asked, in a

Lord Eldon had laid his account with being now "restored to a life of privacy at sweet Encombe," of which he talked with seeming delight, but to which he looked forward with real dismay. The Ministers and the Opposition had fought the Regency Bill to its last stage, in the full belief that as soon as it passed they were to change places,—the former striving to prolong the interregnum, and to curtail the power of the Regent—the latter, to invest him as soon as possible with the unrestricted exercise of all the prerogatives of the Crown. But to the unspeakable surprise of both parties, on the day before the mockery of giving the royal assent to the bill, his Royal Highness wrote a letter to Mr. Perceval, in which he declared that, "actuated solely by filial duty and affection, and dreading lest any act of his might in the smallest degree interfere with the progress of his father's recovery, he felt it incumbent upon him to communicate his intention not to remove from their stations those whom he found there as his Majesty's official servants."—This intelligence did not cause either high exultation or deep disappointment. The good faith and political steadiness of the Prince were not yet suspected, and it was believed that the change of Administration was only decently deferred till it was seen whether the predictions of the King's speedy recovery would be verified, or at all events till the expiration of the restrictions imposed by the Regency Bill.

Some said that the Chancellor had already gained over the Prince, and a letter was quoted, which his Royal Highness had written to him a few months before, respecting the Princess Charlotte, in which this courteous language occurred: "I trust to the very particular attention which has marked your Lordship's proceedings through the whole of this business, to take the most suitable course of conveying to the King, with the most profound respect and duty on my part, the feelings with which I am impressed on this occasion by his Majesty's most gracious and condescending attention to me." But, in reality, the zealous and factious manner in which Lord Eldon and Mr. Perceval had taken part with the Princess, and had printed "the Book" in her defence, still rankled in the Prince's heart; and they knew that, wishing to be revenged of them, he was only lying by for a favourable opportunity to cashier them. Accordingly, for some months

whisper, 'My Lord, is not that the old wig?' and receiving the reply, 'It is, Sir, the old wig,'—the rejoinder was, 'I say, Lord C., why did you keep an old Whig?'

there was undisguised enmity between the Regent and his Ministers. He talked of them disparagingly, and gave dinners at Carlton House to the Whigs. He would not even accept a vote offered him of a sum of money to provide for his household—intimating that he postponed all such arrangements till he could have his “early friends” in office about him. The Queen and Lord Eldon, on the other hand, did all in their power to defeat this purpose,—their most powerful weapon being the King’s immediate resumption of his authority. On the 6th of February the Queen wrote a letter to Lord Eldon, thanking him “for the pleasing account of his Majesty’s improvement since Friday;” and the physicians, at his request, sent a report to him, to be handed about, in which, considering the unhappy condition of the now dethroned Sovereign in their keeping, they strangely say, “We have it in command from his Majesty to express his personal regard to your Lordship, and the particular satisfaction he has felt from the circumstance of your Lordship being made one of her Majesty’s Council,—not by your office of Lord Chancellor, but as Lord Eldon.”^a

But in the course of a few weeks, if hopes of the King’s recovery really were entertained, they died away. It was felt that his reign was virtually at an end, and that those who wished to enjoy power must gain the favour of the Prince as if he already bore the title of George IV. Lord Eldon, with his usual sagacity, at once saw that the way to win his affections was by taking part against his wife. It was not very easy for the authors of “the Book” to do so; but soon after Lord Eldon and Mr. Perceval were in the situation of Chancellor and Prime Minister to the Regent, they refused to dine with the Princess at Blackheath,—they cut off all correspondence with her,—and they bought up at large prices the few copies of “the Book” which had got into circulation. When she found herself suddenly “cut” by them, without there having been hitherto any fresh imputation of misconduct against her, she complained loudly of the “baseness of mankind.”^b We shall see how the Regent was softened towards

^a It would be curious to know whether his Majesty had been informed of Lord King’s motion to exclude him from the Council, and what his Majesty thought of it.

^b There is no evidence of their having changed the tone of their conversation re-

specting her past conduct, except Lord Eldon’s declaration to Lord Grey, “that his opinion was, and always had been, that, though she was not with child, she had supposed herself to be with child.” (Life of Sir S. Romilly, iii. 104.)

his Ministers, and how he appreciated and rewarded their sacrifices and their exertions in his service.

Meanwhile, they applied themselves with diligence and ability to their official duties, and continued to rise in public estimation.

The session began for regular business on the 12th of February, with a speech delivered by Lord Eldon in the Regent's name, containing this graceful conclusion :—

“We are commanded by his Royal Highness to declare to you that it is the most anxious wish of his heart that he may be enabled to restore unimpaired into the hands of his Majesty the government of his kingdom; and thus his Royal Highness earnestly prays that the Almighty may be pleased in his mercy to accelerate the termination of a calamity so deeply lamented by the whole nation, and so peculiarly afflicting to his Royal Highness himself.”^c

The first important matter brought forward in the House of Lords was the abuse of the power of filing *ex officio* informations for libel. Sir Vicary Gibbs, who in 1807 had succeeded Sir Arthur Pigot as Attorney-General, had instituted an immense number of prosecutions against the press; and when he resolved to punish a newspaper, he made it a rule to include as defendants, who were to be fined and imprisoned, or perhaps pilloried, all persons, without regard to age, sex, or calling, who, under family settlements or otherwise, had any share in the proprietorship.^d Lord Eldon, when public prosecutor, had never himself done anything personally harsh, and I think he could not have been aware of Sir Vicary's mode of proceeding when he wrote the following letter to Sir William Scott, regretting that there had been too much forbearance in this department :—

“As to the prosecution of the ‘Morning Chronicle,’ and as to *your friend* Cobbett, I know what I should have done as to those publications long ago, if I had been Attorney-General; but it seems to me that ever since my time it has been thought right to leave the Government's character, and individual character, without the protection of the law enforced, because I had proved its efficacy when it was called into exertion. I am very sore upon this subject; I have growled and grumbled about it till I am weary.”

^c 18 Parl. Deb. 1147.

^d I remember much compassion being excited by an old widow lady, of the name of Mrs. Mary Vint, who appeared on the floor of the Court of King's Bench, with

about fifty others, to plead to informations against them. She had been residing in the country, and never even read any numbers of the journal, from which, under her husband's will, she drew a small subsistence.

Inced by his own peevish disposition, and encouraged by his superiors, Mr. Attorney had gone on multiplying *ex officio* informations till much public indignation was caused by his severity. Lord Holland now moved for a return of the number filed, and the proceedings under them. He questioned the legality of *ex officio* informations for libel, and he strongly reprobated the manner in which the process had been abused, animadverting upon the statute lately obtained, which enabled the Attorney-General to arrest those whom he prosecuted before trial; and likewise on the partial system of striking special juries which then prevailed.

Lord Eldon ably and successfully defended the right of the Attorney-General to prosecute libellers by *ex officio* information; but the rest of his speech I read with regret. He maintained that the power of arresting the defendant when an *ex officio* information was filed was fit to be given, and to be exercised; and he stood up strenuously for the old mode of striking special juries by *selection*, which was afterwards effectually rectified by Sir Robert Peel:—

“He believed that no Attorney-General had prosecuted more libels than it had fallen to his lot to prosecute. He acted on a conviction, that the publication of libel was one of the most formidable weapons then wielded against the Constitution, and that it was an engine which was directed to the subversion of the government of the country. It was his decided opinion, that the mere fact of the number of prosecutions having increased was not a sufficient ground for inducing them to accede to the motion of the noble Lord. With respect to including all the proprietors of a newspaper in the *ex officio* information, he was desirous of stating, that the principle which governed him on these occasions was to prosecute all the parties implicated in the publication of the libel; and he had uniformly found, that by extinguishing the papers he got rid of the authors. The present motion was one which he felt it incumbent on him to oppose, because an acquiescence in such a motion would, in some degree, sanction a suspicion that there was something in the administration of justice which the House considered so far improper as to need some interference.”^e

It seems wonderful to think, that so few years ago such sentiments could be uttered by a mild, moderate; and really good natured man, who justly expected that they would be applauded by a large majority of the audience he addressed. Lord Holland's motion found only twelve supporters. I believe there is no peer who would now hold such language; and I am sure, if there were, he would be equally condemned

by both sides. The general improvement ought to make us look with indulgence on the individuals who spoke and acted in a very different state of public feeling respecting libels.—I think no one will deny the improved respectability of the press under milder treatment.

The Lord Chancellor's efforts were next called forth by a dangerous bill,—to take away the punishment of death from the offence of stealing in a dwelling-house to the value of forty shillings. In answer to the reasoning of Lord Holland and Lord Erskine, that the punishment was wholly disproportionate to the offence, and that, if not inflicted, sentence of death ought not to be pronounced, in cases where it was never meant to be carried into execution, he said, “he used to take similar views of the subject, before *observation and experience* had matured his judgment: since, however, he had learned to listen to these great teachers in this important science, his ideas had greatly changed, and he saw the wisdom of the principles and practice by which our criminal code was regulated. The Bill having taken away the pain of death, allowed the Judge great latitude of discretion in measuring out the punishments to be substituted for it; but, after the most serious consideration, it was the conviction of his mind, that, as long as human nature remained what it was, the apprehension of death would have the most powerful co-operation in deterring from the commission of crimes; and he thought it unwise to withdraw the salutary influence of that terror.”^a He concluded without intimating any intention of extending the punishment of death—which, to be consistent, he ought to have done—to petty larceny and to common assaults. The bill was rejected by a majority of 27 to 10.^b

Lord Donoughmore's motion for the Catholics was this year supported by Dr. Bathurst, the Bishop of Norwich. On this the Lord Chancellor was particularly severe—taunting him with not paying proper respect to the Book of Common Prayer. He said “he could hardly tell where he was,—he could not think himself in a British House of Lords when he heard some things uttered that night. He denied that the authority of Archbishop Wake, which had been quoted, was

^a 20 Parl. Deb. 296.

^b 1p. 303. It is little creditable to the Whig peers that they made so poor a muster, for they all now pretended zealously to support Sir S. Romilly in mitigating the

severity of the penal code; but I presume the division did not take place till the approach of the hour for dinner, when a party struggle alone can keep up a decent attendance on either side.

in favour of concession; he had read something of Archbishop Wake (having been himself in early life intended for the Church), and he could quote him page by page. He could also quote Fenelon on some of these subjects.ⁱ Professing high respect for Mr. Pitt, he declared, rather jeeringly, that he never could discover what the securities were by which that statesman proposed to guard the Established Church; and he scorned the *Veto* which had been lately propounded by Lord Grenville in a "Letter to Lord Fingal."^k It is creditable to Lord Eldon that his anti-Catholic zeal was unabated, although the Regent was understood yet to retain his early opinions in favour of emancipation. There were certain concessions which he would have made out of loyal deference to the Prince on the throne, but his religious scruples, I am convinced, he never would have sacrificed.

The only other subject on which he spoke during the present session was one in which he was personally interested, and which caused him serious annoyance—the increasing arrear of judicial business in the Court of Chancery, and in the House of Lords. Here he was to blame, but not at all in the way his accusers alleged. Years ago he ought to have spontaneously pointed out the evil and applied a remedy. The country had long outgrown its judicial establishments, and the antiquated procedure preserved in Westminster Hall was unsuited to a state of society quite different from that in which it had been originally framed. In the Court of Chancery there were still only two Judges, the Lord Chancellor and the Master of the Rolls, as in the time of Edward I., and for ages past not the slightest attempt had been made to render proceedings in that Court more simple, economical, and efficacious,—while its contentious jurisdiction had been greatly extended, and the property administered in it had increased ten-fold.—Again, in the early periods of our judicial history, a few days in a year were sufficient to enable the House of Lords, with the assistance of the Judges, satisfactorily to discharge its duties as the Court of the last resort; but now, from English equity appeals, which were formerly unknown, and the enormous influx of appeals from Scotland and Ireland in consequence of the union with those kingdoms, although comparatively little help could be obtained from

ⁱ This is a very rare instance of Lord Eldon pretending to a knowledge of anything but law books, for he was greatly above the

affectionation of universality.

^k 20 Parl. Deb. 676.

the Judges,—the Chancellor sitting in the House of Lords had nearly sufficient occupation there during the whole of the forensio year.

There is not the slightest pretence for saying that Lord Eldon neglected his judicial functions. In critical times of rare occurrence, he naturally considered his *intriguing functions* more important; but the Administration being safe, he devoted himself with the most unremitting assiduity to determine the causes of the suitors which came before him. He often doubted when he might have safely decided, and he might have got through his paper more rapidly—but he actually did dispose of more business than any one judge could reasonably be called upon to undertake. Yet, having been ten years Chancellor, he had introduced no reform, although he daily saw justice denied to hundreds. For a long while, in the Court of Chancery, no cause could be regularly heard by him, the whole of his time being occupied with motions and irregular attempts to force an opinion from him. In the House of Lords there were depending 296 appeals, and 42 writs of error, which could not on a moderate computation be disposed of in less than seven sessions of Parliament.

The outcry was at last so loud, that Lord Eldon slowly and reluctantly referred the subject to a Select Committee of the House of Lords, in which he moved, “That, to reduce the arrear, it would be expedient for the House to sit, for judicial business, at least three days a week during the session; and that, for securing the Lord Chancellor’s attendance in the House of Lords, an additional judge should be appointed in the Court of Chancery.” Little good being expected from these palliatives, a motion was made in the House of Commons for a similar committee. Sir S. Romilly, in supporting it, bore testimony to Lord Eldon’s judicial merits, saying, “The motion would not convey, either directly or indirectly, any mark of censure upon the noble and learned Lord; and he did assure the House that nothing could give him greater concern than to be thought to consent to any motion which could in any way be construed into a desire to reflect upon the conduct of that noble and learned Lord. No man had experienced more uniform acts of kindness than himself from the noble and learned Lord. Indeed, his general attention to the Bar, his conciliatory demeanour, and his strict love of justice, had endeared him to all the gentlemen who practised

in that Court. A man more eminently qualified, in point of talents and learning, for all parts of his profession, he knew not; and he most firmly believed that he never had his equal in point of anxiety to do justice to the suitors of the Court. If he had any fault, it was an over-anxiety in that respect." The committee was carried by the casting vote of the Speaker, but it had made no progress when its labours were terminated by the prorogation.

Lord Eldon was, and to the end of his official career continued, much annoyed by these discussions. He now wrote to his friend Dr. Swire:—

"I need not tell you that I have been sorely goaded and vexed and tormented this session; but I defy all my foes, and a man cannot have had the duties to execute in life which I have had to discharge without having many and bitter foes." He then adds (with what sincerity the reader must determine for himself) that he continues, *much against his inclination*, to retain the Great Seal, and to encounter all these evils purely from his attachment to the good old King, and in the hope of again seeing him on the throne, being resolved, as soon as that hope had fled, to retire into private life, and to *take a ride to Eldon*:—

"Of my poor old master I don't despair, though I do not confidently hope, about him. When I give up the Seal, you may look upon that as an act of despair: for though the Regent has certainly conducted himself to *me*, personally, in every respect as well as I could desire, I serve only that my master may find me at my post if he returns to his; and when I give up the hope of that, I have done. I cannot quit the expectation of a ride with you yet to Eldon, and nobody can say how soon that may be."

It seems to me that, being at the head of the Queen's Council, and possessing her Majesty's entire confidence, he wished to preserve the state of the King's health a mystery in his own keeping,—to be turned to his own advantage. A letter to him from Lord Ellenborough respecting "the questions which we ought to put to the physicians," shows that he had been trying to repress the inquiries of all the other councillors,—while he had special reports made to himself:—

"MY DEAR LORD,

"I have had some conversation this evening with the two Archbishops. I own I am very much inclined to doubt the propriety of any opinion I

may have formed, if it differs from yours; but agreeing, as I fully do, that our declaration to the Privy Council need only contain a brief, true, and distinct statement of the King's health, encumbered with as little further circumstance as possible, still I think that for our own information, and for our justification with the world, if it should be hereafter inquired of us what information we had in fact obtained at the time when our statement was made, that we should distinctly know, by precise questions put and answered, *what the King's ailment actually is, and by what symptoms and circumstances of conversation and conduct it is now manifested*,—and also, what is the description and character which we ought properly to ascribe to the *delusions* (as we call them) and what to the *irregularities* and extravagances of plans and projects of which we hear daily.

“This information, when obtained, is *for ourselves* and *to ourselves* only, unless Parliament should require it of us—and if they do, I own I should be sorry to own that we were possessed of no fuller and more distinct information than we are at present enabled to lay before them on this subject. I should be sorry that we should in the judgment of any appear to have inertly and insufficiently exercised a function of inquiry so important as that is which is delegated to us.”^m

The following minute report from the Duke of York to the Chancellor must have made him think of renouncing the Great Seal, or of changing his resolution to do so when the King's recovery was hopeless:—

“Upon my arrival yesterday morning, I found his Majesty in the Queen's room. He appeared at first very much affected at seeing me, and expressed himself in the kindest and most affectionate manner upon my re-appointment to the chief command of the army; but soon flew off from that subject, and then ran on, in perfect good humour, but with the greatest rapidity and with little or no connection, upon the most trifling topics, at times hinting at some of the subjects of his delusion, in spite of all our endeavours to change the conversation. This continued the same during his ride and the whole of the Queen's visit in the afternoon; and though this morning his Majesty was quieter and less rapid in the change of his ideas, yet the topics of his conversation were equally frivolous.

“I was so much shocked at what I had observed both on Wednesday and during the different visits of yesterday, that I took an opportunity, when I left his Majesty yesterday evening, to have a conversation with Dr. Robert Willis, who very candidly stated to me his opinion, that his Majesty had lost ground this week, and that though he thought very seriously of the state of his bodily health, he was much more alarmed at the apparent frivolity, or rather imbecility, of his mind. He added, that something ought to be done; but that, in the present state of

his Majesty's mind, it was in vain to hope that any conversation with him would be attended with any good effect."

* * * * *

In reality the unhappy King became worse and worse; and at a council held at Windsor in the end of August, it was known that he had fallen into a state of incurable imbecility.

"Love oft hopes, when Reason would despair,"—

and perhaps Lord Eldon still was only desirous that *his old master*, remounting the throne, might find him at his post; but I cannot help suspecting that this was a sight he never expected to see, and that he had made up his mind, *for the public good*, to remain at his post under George IV., *if he might*.

He and Mr. Perceval accordingly contemplated the fit measures to be taken at the important crisis when the restrictions on the Regent were to expire—which would be on the 1st of February, 1812, if Parliament had been sitting six weeks previously. Mr. Perceval, in a letter to the Chancellor soon after the last sitting of the Queen's Council, having expressed regret at not being able to have a personal interview with him, thus proceeds:—

"I must, however, content myself with opening the subject by letter, on which I should have had to communicate with you in person if we were to meet. It respects no less a matter than the meeting of Parliament. It must meet and sit, you know, for six weeks before the restrictions of the Regency Bill can expire. The day pointed out in the Act for their expiration is the 1st of February. If Parliament does not meet before Christmas, of course the restrictions must be prolonged from the 1st of February for six weeks from the date of its meeting. Under these circumstances, I think we can hardly pass over the next prorogation without knowing the Prince's pleasure, whether he thinks it so material that the Regency restrictions shall expire on the 1st of February, as to make it necessary that Parliament should meet before Christmas. This is a point so very much of feeling for H.R.H. himself, and in which he is so directly and personally interested, that I cannot but think myself he ought to have it submitted to his most free decision, with as little opinion and advice from his servants upon the point as can be. But if he should determine, as he naturally may and probably will, that Parliament shall so meet as that the restrictions shall expire on the day mentioned, it is a pretty material consideration, on which we should form an opinion, whether it should not meet so long before Christmas as to enable us to arrange, before the Christmas vacation, the household and any other questions which Parliament may have to provide for.

* * * * "To conclude: upon these questions, and such as may be connected with them, I think it will be essentially necessary that we should have our Cabinet friends meet in force, either in the last week in September, or the first week of October; and they ought to know what the business is, and that it is probable they may be detained for a few days. I should like, therefore, to know from you what time, which would answer these purposes, would best suit you to be fixed for the assembling our Cabinet friends."

The object now was, instead of weakening the influence of the Regent by rumours of the King's speedy recovery, to strengthen it by a disclosure of his Majesty's actual condition. Accordingly, on the 5th of October, the "Declaration of the members of her Majesty's Council respecting the state of his Majesty's health" amounted in reality to a proclamation that there had been a demise of the Crown, and that George IV. had begun to reign—this being its language:—

"His Majesty's mental health appears to us to be materially worse than it was at the time of our last report, and, upon the grounds of the protraction of the disorder, the present state of it, the duration of accessions of the disorder, and the peculiar character which the disorder now assumes, his Majesty's recovery is represented as 'improbable' by one of the physicians, and as 'very improbable' by all the other physicians in attendance on his Majesty."

The Regent, expressing satisfaction at the generous suggestion by his Ministers, of an early meeting of the Legislature, whereby the speediest end might be put to the restrictions which they had imposed upon his exercise of the royal authority, intimated his wish that the session should *not* begin sooner than was necessary for the despatch of ordinary business.

On the 7th of January, the day appointed, Lord Eldon, in the name of the Regent, decently reminded the two Houses of "the indispensable duty of continuing to A.D. 1812. preserve for his Majesty the facility of resuming the personal exercise of his royal authority in the happy event of his recovery, so earnestly desired by the wishes and the prayers of his family and his subjects." But it was well understood on all sides that the Prince of Wales, under the title of REGENT, was as firmly seated on the throne as if his father had been dead; no one thought of proposing a renewal of the restrictions; and it was generally expected that when the six weeks from the meeting of Parliament allowed by the Regency Act

for that purpose had expired, all the great offices under the Crown would be in possession of the oft-disappointed Whigs, who at last, after a lapse of above half a century, having a favourable court, would see a return of the halcyon days enjoyed by their party from the death of Queen Anne till the accession of George III.

But, alas ! alas ! the Regent had secretly made up his mind for ever to discard his "early friends," and permanently to retain as his Ministers the men who had long thwarted him in all his wishes, and for whom he had expressed and felt the strongest personal as well as political dislike. Various causes have been assigned for this revolution of sentiment. The most creditable one, and that which we are bound to suppose had considerable weight, was, that the military operations in the Peninsula had been going on prosperously under the present Administration ; but this alone could not have prevailed, for Mr. Perceval was not looked upon as a great war minister, and sections of the Tory party, headed by Lord Castlereagh and Mr. Canning, were hostile to him, while he was hardly able to cope with the systematic opposition of Lords Grey and Grenville. A more probable solution is, the effect of the possession of royal power, which was supposed to have disinclined his Royal Highness to any concession to the Catholics or any extension of popular rights, and induced him to look with preference to those who were for carrying to the highest pitch the power of the Crown. His Royal Highness certainly did at a subsequent period manifest an entire change of opinion on the question of Catholic emancipation, and showed that he had become thoroughly reconciled to his father's high-prerogative principles of government ; but I am inclined to think that as yet he was actuated only by personal motives. A lady of rank to whom he was now much attached was an enemy to the Whigs and their principles, and was supposed mainly to have induced her admiror to declare against them.* Perhaps, however, he was more swayed by hatred than by

* Of this opinion was Sir S. Romilly. In referring to the judgment of the House of Lords in Miss Seymour's case, in 1806, he says,—"This decision was attended, some years afterwards, with consequences of considerable importance. It occasioned a great intimacy between the Prince and Lady Hertford, which ended with her entirely supplanting Mrs. Fitzherbert in the Prince's favour ; and it produced that hostility towards the Ca-

tholics which the Prince manifested when he became Regent, and his determination to place his confidence in those Tory Ministers whom he had always before considered his personal enemies."—*Life of Romilly*, ii, 146. Again, when relating the events in the beginning of 1812, at which we have now arrived, Sir Samuel says, very significantly, "The Prince does not pass a day without visiting Lady Hertford."—*Vol. iii* p. 12.

love. His ruling passion for many years was the desire to expose the failings of his wife—if possible to get rid of her—and at all events to degrade her. Mr. Perceval and Lord Eldon, instead of being the bitterest, most reckless, and most formidable opponents of his plans for this purpose, as they had been while her protector George III. was on the throne, he now sanguinely hoped to convert into partisans against her. They had actually ceased to be her advisers, or to have any intercourse with her. There is no reason to believe that, without fresh indiscretions on her part, either of them ever would have agreed to any prosecution against her; but from their late negative conduct the Regent might not unnaturally have hoped that they would positively assist him in the steps which he contemplated. I believe, likewise, that he laboured under an erroneous belief that during the last year her cause had been taken up by the Whigs. One or two distinguished lawyers belonging to that party had been consulted by her when she was cast off by her former advisers; but Lords Grey and Grenville had always remained at a dignified distance from her, and would have spurned at the idea of turning her supposed wrongs into an engine of faction against the Government.

Whatever might be his Royal Highness's reasonings or motives, a few days before the restrictions were to expire he very clearly intimated his resolution to renounce the Whigs, by writing a letter to the Duke of York, in which, after stating that his sense of filial duty had originally induced him to retain his father's Ministers,—adverting to the recent successes in the Peninsula, and declaring his determination to persevere in the contest,—he said, "I have no predilections to indulge, no resentments to gratify, no objects to attain, but such as are common to the whole empire. Having made this communication of my sentiments in this new and extraordinary crisis of our affairs, I cannot conclude without expressing the gratification I should feel if some of those persons, with whom the early habits of my public life were formed, would strengthen my hands and constitute a part of my Government." He authorised the Duke to communicate these sentiments to Lord Grey, with liberty for him to make them known to Lord Grenville; but he added, in a postscript, "I shall send a copy of this letter immediately to Mr. Perceval." P

I am surprised that Lord Eldon, with his keen sagacity, did not immediately see that this offer could not possibly be entertained by the Whigs for a single instant, and that it was made with the sole view of rendering the desertion of them less odious. As soon as he was informed of it he wrote the following letter, which I think is very honourable to him, for he peremptorily refused to sanction such a preposterous coalition, although, if it had taken place, the Great Seal would have remained in his custody.

“Saturday.

“DEAR PERCEVAL,

“As it may not be absolutely impossible that, in the course of this day, during my absence at Windsor, something may pass, tending to a proposal to associate me in a talk with Lords G. and G. upon junction, permit me to state, in a few words, that my determination to take no part in that talk is founded upon the following reasons; and, if *necessity* requires it, you may so state to the Regent :—

“That I think it not consistent with my honour to take part in a negotiation for a junction, in which junction I can take no part. I can take no part in it—

“Because, having been twenty-nine years in Parliament without deviating, as far as I can recollect, from my principles with respect to the Constitution of the country and the means of supporting its Monarchy, there appears to have been, in that long course of years, no agreement in those principles between Lord Grey and myself.

“Because there was no such agreement between Lord Grey and Lord Grenville between 1783 and 1801.

“Because there has been no such agreement between them and myself since 1801.

“Because my decided opinion is, that all attempts at making strong Administrations upon broad bottoms must be known, to those who are practised politicians, to be frauds upon the country originally,—and frauds which, whether such politicians know *that* or not, can no longer be effectually practised upon the country. The great mass of the people, through many ranks of which I have passed, I know, hold the thing, and the men that are engaged in it, in utter detestation, producing absolute weakness in Government, and of course deeply affecting the interests of the Crown.

“Because the differences with respect to the Catholic question, American affairs, and bullion, are, in my opinion, too deep to be skinned over.

“Because, if that were not so, differences, upon most essential points of government, avowed for thirty years, clearly establish that Lords G., G., and Lord Eldon ‘*non bene conveniunt.*’

“Because my situation is peculiar. Lord G—y said in debate, and Lord G—y, Lord G—e, and others who, if they come into Administration, must come into Administration along with them, have said, in their

protest upon the Journals, what I can give no countenance to by coming into their assembly."

"Allow me to add, that you know how much my heart has been wrung with the difficulties of holding office, when I have been obliged, but I hope justified, in taking the painful part I have had to execute, with regard to the situation of my Sovereign and benefactor, my revered master.

"Yours, my dear Perceval,

"ELDON."

He was soon tranquillised by a note from Mr. Perceval, saying, "The answer was a refusal—on public grounds—to have anything to do with us. The Prince sent to me immediately to show the answer, and to authorise me to say that I was to be continued Minister."

What other result could possibly have been expected? Both parties were agreed upon the necessity of vigorously prosecuting the war against Napoleon, but upon the impending war with America, and upon every other existing question of foreign and domestic policy, they were completely at variance. Instead of a soothing compliment, a wanton insult seems to have been intended to Lord Grey and Lord Grenville, for they were called upon to strengthen his Royal Highness's hands by supporting all the measures of the present Government. "The very proposal, indeed," says Sir S. Romilly, "imports that a total sacrifice of honour and of character was a necessary qualification for entering into the Prince's service. He says in the letter that 'he has no predilection to indulge, and no resentment to gratify'—a most dangerous statement at the commencement of his reign, considering his past conduct and his past professions. It will be understood to mean, that 'there are no injuries he will not forgive, and no services he will not forget.'"

At the time there was an unfounded belief that the offer to the Whig leaders was a subtle contrivance of Lord Eldon's. We certainly know that—"minister-maker" as he was—he had no hand in this intrigue; and there is even some reason to doubt whether, although Mr. Perceval had gained the Prince's unqualified confidence, the Chancellor was not still regarded at Carlton House with some remains of suspicion and dislike—which by his agreeable manners, however, he soon entirely dissipated."

* Referring to the protest upon the motion for excluding him from the Queen's Council.

[†] Life, iii. 11. Sir Samuel, pleased with the attentions he had received from the

Prince, had hitherto been inclined to think, and had spoken, well of him.

* See Twiss, i. 477, ch. xxxiii.

CHAPTER CCII.

CONTINUATION OF THE LIFE OF LORD ELDON TILL THE CONCLUSION OF
THE GENERAL PEACE.

ON all occasions Lord Eldon now seemed penetrated with the same respect and affection for his "dear young master," the Prince Regent, which he had professed formerly for his "dear old master," George III.

A.D. 1812.

In the debate on a motion of Lord Boringdon's, for "the formation of an efficient Administration," in speaking to order, he was led by his zeal to be very disorderly in commenting on what had been said in a past debate, when a question had been asked "whether the letter purporting to come from the Prince Regent to the Duke of York was genuine?" Said Lord Eldon: "When on a former evening I saw a noble lord stand up in his place with a newspaper in his hand, and proceed to ask questions of a Minister about a private letter written by my royal master, I confess my astonishment at what I conceive to be a most novel and unjustifiable proceeding." Being called to order by the Marquess of Douglas, he persisted in saying, "I again reprobate the production of a newspaper for the purpose of asking whether an article in it was a letter from the Prince Regent; and I declare, if any confidential servant of his Royal Highness had given an answer to such a question, I never after would have entered the same room with that person for the purposes of confidential advice." Lord Holland again speaking to order, the Chancellor said, "I never will act so unbecoming the person placed on the woolsack as to permit such language as I sometimes hear—for I am bold to assert, in the presence of all the noble lords present, that I never witnessed in the course of thirty years' parliamentary experience any thing so monstrous and disorderly as the production of a newspaper in that House." [Here his Lordship was interrupted by loud and repeated cries of ORDER!]*—Marquess of Lansdowne.* "I never heard any thing so disorderly as the language made use of by the noble and learned Lord on the woolsack."*—Lord Chancellor.* "I shall always object to

any observation being made in this House, having a reference to his Royal Highness the Prince Regent, which in the strict course of parliamentary proceeding ought not to be applied to the King himself, whose representative he is, and I shall certainly always protest against the production of a newspaper." He was again stopped by cries of ORDER! and Lord Boringdon put an end to the altercation by saying, that "he considered the act of the Prince Regent in writing the letter the act of a responsible adviser."

At a later hour in the evening the Lord Chancellor made a regular speech; and to show that he was not hurt by what had passed, he was very jocular. "The noble Lord," said he, "wishes for a broad-bottomed Administration—in general the most mischievous of all Administrations. [A laugh.] I assure the noble Lords who seem to feel this allusion, that I do not mean to speak ill-naturedly of them. Somehow or other, they have been for a long time out of humour with me: I am sorry for it, as I really wish them every happiness. As to the estimation in which the present Administration is held by the public, I believe that the people of this good-natured country are weak and foolish enough to honour us with their confidence. Good-natured people are always weak. But let the cause be what it may, so it happens, that the confidence of the country is possessed by the present Administration; and this certainly is no very good reason for addressing the Prince Regent to change it." He then reiterated his doctrine, that "the King, in choosing his servants, must be considered as acting without any adviser," and that "a Minister is only responsible for what happens *after* his own appointment,"—now generally allowed to be inconsistent with the constitutional maxim, that "the King can do no wrong." Ministers had a majority of 165 to 72, and Lord Eldon saw himself more securely possessed of the Great Seal than he had ever before been; for under George III. he lived in perpetual dread that the mental infirmity of that monarch might so far increase as to render his exercise—real or apparent—of the powers of government impossible,—when a change of councils was always certainly anticipated.

Conscious that Dr. Swire, to whom he had announced his certain resignation, when he could no longer expect to hold the Seal under his "dear old master," must be a little scandalised to find him still in possession of the bauble, he sends his bosom

friend the following very entertaining explanation of all that had happened :—

“ And now, my dear Swire, allow me to discuss with you my present situation, and the strange, the unaccountable occurrences which have taken place in the last eighteen months. When my dear old master, under the severe dispensations of Providence, but such as I humbly must suppose to be right, because they are the dispensations of Providence, could no longer personally execute his great functions, I thought that I should have been as able, as, most sincerely speaking, I was willing, to quit the labours which no man can endure, unless the same Providence shall sustain him with the blessings of health and composure of mind and temper, which are indeed but rarely to be looked for at any period of life, and at mine, very, very rarely indeed to be looked for.

“ The medical men thought his Majesty’s speedy recovery highly probable :—the Prince therefore thought that in duty to his father he could not dismiss his father’s servants. How was it possible, that whilst he acted under such a feeling of duty to his father, his father’s servants could refuse to act under him as the representative of his father? • With wishes as anxious as ever man formed, I could not reconcile to myself the notion, that whilst the father’s son so conducted himself, the father’s most grateful servant could refuse to take his share in a state of things, which, for the father’s sake, the son determined should remain undisturbed by him. So matters went on through the year of restricted Regency. Before the close of it, the Prince had totally altered his opinion of the men whom he had hated—and I have his own authority for believing that the kingdom produced no man whom he more hated than your friend, the writer of this letter. Though the prospect of his father’s recovery had grown more gloomy, and though I fear it will never brighten, I must do him the justice to say, that he has always declared to me that he will never despair till his father ceases to live : and my own real opinion is, that whatever motives his friends or foes may, in their conjectures, ascribe his late conduct to, he has been principally governed by a feeling that, if his father should recover, he would never forgive himself if he suffered him to awake to a scene in which the father should see his servants discarded by his son. The same sentiment appears to me to have governed him with respect to the Catholic question, with regard to which, I believe that, after his father’s death, he will act with a due regard to the established religion. But with the possibility before him, though the utter improbability, of his father’s recovery, I believe the world would not induce him, as far as he is concerned, to countenance any measure that would shock his father’s feeling, if, contrary to all expectation, he should recover. With such determinations, on his part, with reference to his father, daily and constantly proved to be most sincerely adopted by him in his intercourse with me, how could I possibly refuse to consent to what his entreaty pressed upon me, to remain in the service of a son so conducting himself towards the father to whom I owe so much? or how

could I break up an Administration, which must be succeeded by another which would overturn all that I think right? God knows that we live in times when public office, if it is not vanity, is literally and truly labour and vexation of spirit, and how I get through my share of it I know not :— *but God is very kind to me.* I have given you the outline of what has governed me in my conduct, and though I care not at all as to the opinion of the world in general, I should be deeply hurt if you could not approve it. Interest, or ambition, or even private wishes, have had nothing to do with it. I have believed myself to have been acting right, and I hope in God that I have been so acting."

I must do Lord Eldon the justice, however, to say that he did not attempt to pour forth such hypocritical cant to his brother, Sir William, whom, about the same time, he thus addresses with *abandon* :—

"Dear Brother,—Little or no news. The L'Orient squadron have got into Cherbourg. The game of the Princess of Wales is to be the grand sport of the remainder of the session." Her husband [thereby then and there meaning his 'dear young royal master'] is furious indeed with indignation against the 'early friends.' And it is now, as we used to suppose it heretofore, that is, that he knows every word that is uttered at Blackheath or Kensington. Sidmouth is all but President of the Council, and I suppose will be before the meeting of Parliament. Some of the Dissenters are writing against the *Popishers*, and publishing dissuaves against making cause with them. The London clergy petition, and some few addresses, very few, come from different parts in favour of the poor old Church."

Such a gleam of sincerity is most refreshing!

The Prince's changed feelings and conduct towards Lord Eldon had been brought about by a variety of causes of a public and private nature—among which, unquestionably, the chief was Lord Eldon's changed feelings and conduct towards the Princess of Wales; but he, ever accounting for events in the manner most creditable to himself, ascribed his recent reconciliation with the Prince; and the friendship which now sprung up between them, to a discovery of his Royal Highness, which must have been made, if ever, as soon as the Regency Bill passed. "His Majesty George IV. has frequently told me," he said, "that there was no person in the whole world that he hated so much as for years he hated me. He had been persuaded that I endeavoured to keep him at a distance from his father; but when he came into possession

"He seems to have supposed that Lords Grey and Grenville were coming out with a 'book,' as well as motions, in her behalf."

of his father's private papers, he completely changed his opinion of me, in consequence of the part which, from my letters, he found I had always taken with reference to himself. He was then convinced that I had always endeavoured to do the direct contrary of what was imputed to me. He told me so himself, and from that time he treated me with uniform friendliness.*

Lord Eldon had now only one source of uneasiness—the investigation going on before Michael Angelo Taylor's Committee in the House of Commons “on the causes of the delays in the administration of justice in the Court of Chancery;”—but this made him very unhappy. He wrote a long letter on the subject to Mr. Perceval, in which, after blaming the Government for allowing the committee to be re-appointed, he says, “I have now sat in my court for above twelve months, an accused culprit, tried by the hostile part of my own bar, upon testimony wrung from my officers, and without the common civility of even one question put by the committee to myself, in such mode of communication as might have been in courtesy adopted. When I say that I know that I am, and that my officers, and that my successors will be, degraded by all this, I say what I think I do know.” He then goes on at great length to justify himself, and to censure the plan of separating bankruptcy from the jurisdiction of the Lord Chancellor, together with other reforms which had been suggested. To pacify him, the committee decided that “they would not examine barristers and solicitors of the Court of Chancery touching the causes of delay in that Court;” and a motion in the House of Commons to instruct them to do so was negatived by a large majority.†

Lord Eldon thought that his cares were over for the rest of this session, and that with the protection of Mr. Perceval, over whom he continued to exercise a sort of control, from the Prime Minister having practised at the bar under him, he was likely henceforth to enjoy tranquillity.

But in a few days after that victory, Mr. Perceval, who seemed to have before him a long and brilliant official career, who was highly respected and beloved by his own party, and was allowed by his political opponents to be a most amiable and high-minded man, fell by the hand of an assassin—and there arose an almost unexampled scene of political confusion,

* Twiss, ch. xxxiii.

† 23 Parl. Deb. 61.

during which there seemed several times almost a certainty of an entire change of Administration.

Lord Eldon imbibed a notion that he himself had been in imminent danger of being shot by Bollingham, but for this there does not seem to have been any foundation.* All classes of the community were dreadfully appalled by this event, and for many reasons it occasioned a particular shock to the Chancellor. The Princess Elizabeth wrote a very feeling letter on the occasion to Mrs. Scott, his daughter-in-law, in which, after stating that the Queen had ordered her to inquire after Lord Eldon, she says :—

“Well knowing how deeply he feels, she greatly dreads that the shock of yesterday may have injured his health. It is impossible not to shrink with horror when one thinks of an Englishman committing murder, and doubly striking when one must mourn for the loss of so excellent a man as Mr. Perceval. We live in most awful times : for the loss, both public and private, must be equally felt. We really are so horror-struck, that it is impossible for me to describe our feelings. His family have lost one who has ever proved real affection and attachment, and my beloved father has lost a most upright and conscientious Minister. Our only comfort in the midst of our own trial is, that my father is spared this affliction : for I verily believe, had it pleased the Almighty to have allowed of its being told him, it would have totally overset him. My mother commands me to add, she would herself have written to the Lord Chancellor, but she thought it better to make me write, well knowing his time is precious, and that it was cruel to add to his troubles by desiring an answer.”

Lord Eldon did himself reply in the following terms ; and in this instance, I believe, expressed not more than he really felt :—

* Lord Eldon was sitting on the woolstack when intelligence of Mr. Perceval being shot was brought to the House of Lords. Apprehending that there might be a plot to assassinate all the Ministers, he said, “I have just been informed of a most melancholy and atrocious event which has happened in the lobby of the other House. In this situation, I feel it my duty to apprise your Lordships that I shall take care to give the proper directions to the officers that none go out of the doors of this House of Parliament till we have been fully satisfied that they have not the means of doing further mischief.” An order was accordingly given to search all strangers below the bar for concealed fire-arms, but it

was not carried into execution ; and the House, having moved an address to the Regent, expressing their horror at the crime committed, and praying that he would take proper steps for bringing the offender to justice, adjourned.—23 *Parl. Deb.* 161. Bollingham had been in the Court of Chancery the same morning, and was supposed to have looked fiercely at the Chancellor, but seems to have intended no violence at that time. The chief object of his resentment was Lord G. Leveson Gower (afterwards Earl Granville), who had been ambassador in Russia when he had suffered some supposed grievance there, for which he made the Prime Minister responsible.

"The Lord Chancellor, offering his most humble duty to your Majesty, whilst he acknowledges with infinite gratitude your Majesty's gracious condescension and goodness in directing inquiries to be made respecting the Chancellor's health, amidst the afflicting circumstances in which he has been lately placed, takes leave to beseech your Majesty to be persuaded that nothing but the distress of his mind could have so long prevented him from returning your Majesty his heartfelt acknowledgments for the proof he has been honoured with, that your Majesty takes some interest in his happiness.

"By the death of Mr. Perceval, the Lord Chancellor has lost a friend whom he valued, esteemed, and loved. His Majesty's people have lost a great and able fellow-subject and statesman, and the Lord Chancellor trusts that your Majesty will do him the justice to believe him when he adds, that his Majesty and his august and illustrious family have lost a servant, whose attachment to them the Lord Chancellor knows to have been the ruling principle in his heart, and whose attachment was rendered important because his virtues were universally known. The Chancellor, as himself a servant of his Majesty, anxious for the honour and welfare of all his Majesty's family, finds it difficult, very difficult, to prescribe bounds to that grief which daily overwhelms him.

"Bedford Square, May 18th, 1812."

Within a week from the time when the fatal shot was fired, the assassin, with the approbation of Lord Eldon, then at the head of the administration of justice, suffered on the scaffold," although his counsel had earnestly pressed that his trial might be postponed, for the purpose of bringing witnesses from Liverpool to prove his insanity. This precipitation, — after the public mind had recovered its composure, was much blamed; and I can say of my own knowledge that it greatly conduced to lead judges and juries into the contrary extreme, which we have had to lament of late years. Now-a-days the commission of an atrocious crime is of itself supposed to afford strong evidence of alienation of mind, and, from the vague metaphysical conjectures of physicians who never saw the prisoner, acquittals take place on the ground of insanity, where, at the time when the offence was committed,

"The shot was fired about five o'clock on Monday afternoon, May 11th; the trial took place on Friday, the 15th; and before nine o'clock in the morning of the Monday following, Bellingham's dead body was lying in the dissecting room of Surgeons' Hall. He had formerly been confined in a mad-house, and several of his family had been affected with madness. Romilly says,—

"No person can have heard what the conduct and demeanour of this man has been since he committed the crime, or can have read his defence, without being satisfied he is mad; but it is a species of madness which probably, for the security of mankind, ought not to exempt a man from being answerable for his actions."—*Life*, ii. 36.

there was no delusion of the senses, and there was complete consciousness of the nature of the criminal act and of its consequences.

In the ministerial crisis which followed the death of Mr. Perceval, Lord Eldon, really though not ostensibly, was the prime mover,—displaying the bold decision and consummate skill which always distinguished him on such perilous occasions. He contrived to avoid participating in the numerous discussions which took place in Parliament respecting the negotiations, while they were pending, and no letter of his connected with them appeared before the public till after his death; but we now certainly know, what was before only suspected, that, with the assistance of the Duke of Cumberland, he was throughout the secret adviser of the Regent, and that his intrigues achieved the triumph which his party obtained. His conduct at this time has been severely animadverted upon, but I think without any sufficient reason,—except, perhaps, that while he was consulting about offers to be made which might perplex political opponents, and conditions to be demanded which could not be conceded, he shut up the Court of Chancery, instead of trying to clear off his arrears of judgments,—when, apparently, it was his duty to “set his house in order.” He was fully justified in doing every thing he could to keep out of office Lord Wellesley, Mr. Canning, and the Whigs, for he heartily hated their principles, and he sincerely believed that their accession to power would not only have deprived him of the Great Seal, but would have been the ruin of the empire.

The Regent, still “furious” (as we are told on high authority he had been two months before) “against the *early friends*,” was desirous to go on with his surviving Ministers, selecting one of them to be put at the head of the Treasury; and was, above all things, solicitous to exclude Lords Grey and Grenville from his councils. For this purpose, by the advice of the Duke of Cumberland, he very judiciously sent for the Chancellor; and explaining his views to him, commissioned him, first, to try to reconstruct the Cabinet from the existing materials, and if that should be found impossible, the least obnoxious additions were to be made to it. Lord Eldon himself, with a courage which never forsook him in extremity, thought that the present Cabinet, enjoying the entire confidence of the Regent, and not unpopular in the country, although many wished to see it strengthened, might

go on without admitting any one, whether Pittite or Whig, who favoured the pernicious measure of Catholic emancipation.

But it was necessary to take the opinion of his colleagues; and by the Regent's authority, having assembled them, he put to them, *seriatim*, this question:—"Are you of opinion that without Lord Grey and Lord Grenville, and without Lord Wellesley and Mr. Canning, you can carry on the government?" There is extant the memorandum, in his handwriting, in which he noted their answers and his own.—"Eldon. 'It might.' But there was only one other unqualified affirmative—that of the Earl of Westmoreland (not a very great authority), who said simply, 'Yes.' The rest were—'No,' by Lord Mulgrave.—'Doubtful,' by Lord Sidmouth.—'Not,' by Lord Harrowby.—'Dangerous to Prince and country,' by Lord Bathurst.—'Doubtful,' by Lord Buckinghamshire.—'Very doubtful, not desperate,' by Lord Camden.—'Very improbable,' by Lord Melville.—'Doubtful, not desperate,' by Lord Liverpool.—'Extremely difficult,' by Mr. Ryder.—'Doubtful to say the least, *without a proposition*,' by Lord Castlereagh." He next asked them, "if they would join an Administration with Lord Wellesley at the head of it," and with one voice they said "No,"—for he had lately left them on account of their hostility to Catholic emancipation, and their refusal to carry on the war in the Peninsula with sufficient vigour. They were then asked, "If the Prince put *at the head* any member of the *present* Administration, will the rest support him?" They were all at last induced to say that "they would," but they almost all concurred in the sentiment expressed by Lord Castlereagh, that a "proposition" was necessary, for the purpose of showing to Parliament and the public that they had endeavoured to render the Government more efficient. They all signed the following declaration, leaving it to Lord Eldon more fully to explain their sentiments to his Royal Highness:—"The Cabinet would feel it to be their duty, if called upon by the Prince Regent, to carry on the administration of the government under any member of the present Cabinet whom his Royal Highness might think proper to select as the head of it. They consider it to be at the same time incumbent upon them most humbly to submit to his Royal Highness, that, under all the present circumstances of the country, the result of their endeavour to carry on the government must in their judgment be very doubtful. It does not, however, appear to them to be

hopeless, if the Administration is known to possess the entire confidence of the Prince Regent."

Lords Grey and Grenville were less disagreeable to most of the Cabinet than Lord Wellesley and Mr. Canning, but they could not be pressed upon the Prince till every other resource was exhausted; and with the concurrence of Lord Eldon, a negotiation was first opened through Lord Liverpool, with Lord Wellesley and Mr. Canning, for their accession to office, upon the basis of Mr. Perceval's policy. While Lord Eldon was ignorant of the result, he wrote to Sir William:—

"Nothing is in any degree settled. The particulars of what has been passing I cannot commit to paper. If I am a political coward, as I may very justly be thought, it is, as it appears to me, a very melancholy truth, that I can find nobody among those whom Perceval has left, with respect to whom, upon comparison, I have not a most extraordinary degree of political fortitude. In general, I believe I may say, that attempts are making, with the concurrence of all, to bring Wellesley and Canning into office. If they come, Liverpool will be at the head of the Administration, and Castlereagh to be, among the House of Commons' members of Administration, at the head of them. Most think that W. and C. will not come upon those terms—they will be accepted upon no other. My opinion is, that both are so sick of being out, that they *will* come upon such terms. If they don't, we shall try what we can do without them. Upon this there are three opinions, two among us: that is, I think, that *that* may and *will* go on—all the rest think that it must be tried, but that it *cannot* go on, and that things will fall into the hands of G. and G. nearly forthwith. A third opinion comes from gentlemen in the H. of Commons, who think it will go on—and who are not inclined to support at all, if W. and C. *do* come in. Upon this last opinion, however, it is too late to act, if they bite. Lord Sid. has behaved very well, certainly; so has the Regent."

To Lord Eldon's surprise and joy, Lord Wellesley and Mr. Canning "did not bite." They would not come in on the terms offered, and they proposed, with seeming moderation, "that a Cabinet might be formed on an intermediary principle respecting the Roman Catholic claims, exempt from the dangers of instant unqualified concession, and from those of inconsiderate peremptory exclusion,—and that the entire resources of the empire might be applied to the great objects of the war."^b

A "proposition" having been made and rejected, it was thought that the old Cabinet might go on without difficulty, and Lord Liverpool was about to be declared Prime Minister;

but there was much public dissatisfaction from the belief that the late abortive attempt had not been sincerely made; and Mr. Stuart Wortley (afterwards Lord Wharncliffe) moved, in the House of Commons, an address to the Prince Regent, praying him "to take measures for forming a strong and efficient Administration,"^c—which was unexpectedly carried by a majority of 174 to 170.^d

Next day the Ministers all tendered their resignations, and intimated that they only held their offices till their successors were appointed;—but several of them were still sanguine in the belief, that the negotiation for a new Administration might be disturbed, and that they must yet be recalled. Lord Eldon was more constantly closeted with the Duke of Cumberland than ever, and it is supposed that he did not at any moment despair of ultimate success.

Lord Wellesley was now sent for by the Regent, and commissioned to form an Administration. He first applied to the men actually holding office, to know whether any of them would join him,—and, as had been concerted, they unanimously refused to be members of an Administration of his forming. He then had permission to treat with Lord Grey and Lord Grenville; for, although the Whigs were by no means then popular, there was a large class in the community who had a high respect for the great talents and unsullied reputation of these two statesmen, and desired to see them employed in the public service. It was therefore considered necessary that they should not appear to be permanently excluded from office; but Lord Wellesley, though permitted to treat with them, was limited to terms respecting seats in the Cabinet, and other arrangements, to which they could not for a moment listen. In consequence, on the 3rd of June, he stated in the House of Lords, that he had that day resigned the commission intrusted to him for the arrangement of a new Administration, and, in reference to the existing cabinet, "lamented that the most dreadful personal animosities should have interposed to prevent an arrangement which was so essential for the welfare of the country." He declared that he was ready to disclose every thing that had passed during his negotiations, but strongly advised their Lordships not to call for the disclosure. This advice was followed,—Lord Liverpool, on behalf of himself and his colleagues, disclaiming all personal animosities, and declaring that they had been actuated only by con-

^c 23 Parl. Deb. 249.

^d *Ib.* 281.

siderations of public principle. Lord Eldon, although strongly alluded to by Lord Grey and Lord Grenville, could not be induced to leave the woolsack for the purpose of communicating information to the House respecting the steps hereafter to be taken.

He was at length of opinion that enough had been done to please the timorous, and he would immediately have started Lord Liverpool as Prime Minister, but Mr. Stuart Wortley threatened another motion in the House of Commons, and several of those, in comparison with whom he had "an extraordinary degree of political fortitude," quailed at the prospect of the coming storm. The Regent was therefore advised to employ Lord Moira to negotiate the formation of an Administration, the basis of which should be "the consideration of the Catholic claims, and the vigorous prosecution of the war in Spain." He was himself only to have an inferior office with a seat in the Cabinet, Lord Wellesley being First Lord of the Treasury, and Lords Grey and Grenville having the principal sway in it.

Notwithstanding Lord Eldon's confident belief that this negotiation would fail, it had very nearly succeeded, and it would have led to his removal from office; but he was saved by Lords Grey and Grenville's unskilful management of a dispute respecting the offices in the household. They were justified in considering that those appointments should form a part of a general ministerial arrangement, and were not to be filled up according to the personal liking of the Sovereign; but they insisted on the preliminary dismissal of the present officers of the household,—who had all privately resolved to resign as soon as the new Administration was formed. The Regent was advised to make his stand upon this point, and even Lord Moira applauded his resistance. The unfortunate issue was chiefly imputed to Sheridan, who concealed from his friends the fact communicated to him, that all the household offices certainly would have been at the disposal of the new Ministers.*

It is curious to speculate on the probable consequences of the establishment of the Government which was so near being formed. Lord Wellesley being at the head of it to co-operate

* Sir S. Romilly exempts Lords Grey and Grenville from all blame, saying that "they very properly refused to be members of the Cabinet, unless the offices in the household,

usually appointed to by Ministers, were to be at the disposal of the new Ministers."—*Life*, iii. 41.

zealously with his brother the Duke of Wellington, we may fairly conclude that our military triumphs would not have been less brilliant than those which actually followed;—the unfortunate contest with America would have been avoided by the immediate repeal of the Orders in Council;—and if Catholic emancipation had then been voluntarily granted, we might have escaped many of the evils which arose from its being afterwards extorted by violence.

But the nation took part against Lord Grey and Lord Grenville, and Mr. Stuart Wortley said, “These noble lords had debarred themselves, by their own conduct, from becoming the Administration of the country; it was with regret that he saw the nation deprived of the services of such men; but under the circumstances which had occurred, they were themselves responsible for continuing in a private station.”¹

On the 8th of June Lord Liverpool declared in the House of Lords, that he had been that day appointed, by his Royal Highness the Prince Regent, First Commissioner of the Treasury, with authority to complete the other arrangements of the Administration as soon as possible; and Lord Moira, in lamenting the failure of his enterprise, said, “there is this consolation, that it is now testified to the world, that on the part of his Royal Highness the Prince Regent, there was in the proposition submitted by his authority to my noble friends no reservation whatever, and that it was made with the most entire disposition to give every effect to the wish expressed by the other branch of the legislature.”²

Yet Sir Samuel Romilly thought that he had merely been made the tool of a more crafty man; and in his Diary thus sums up his account of this crisis:—

“June 11.—The whole of the negotiations for a new Ministry have been conducted, unquestionably, with a previous determination on the part of the Prince and of those who enjoy his confidence, that they should not end in Lord Grey and Lord Grenville and their friends being in power. The Lord Chancellor has never, from the moment of the address of the House of Commons being carried, shown the least symptom of apprehension that he was to resign his office. During these three weeks that the Ministers have been represented by themselves as holding their offices only till their successors should be named, he has given judgment in none of the numerous causes, petitions, and motions, which have been long waiting his decision; though there never before was an instance of

a Chancellor about to resign the Great Seal, who did not hasten to clear away the arrears of his Court. Instead of this, Lord Eldon has been every day closeted with the Duke of Cumberland; and, during several days in the term, the Court has been entirely shut up, while his Lordship was employed in some way never known to the suitors of his Court, or to the public. We have even had the Duke of Cumberland coming down to Westminster Hall, and sending for the Chancellor out of Court. The whole matter has ended pretty much as I expected. It might have been much worse, if Lords Grey and Grenville had not been deterred from taking office by the obstacles which were purposely thrown in their way. They would have been suffered to remain in the Ministry but a very short time; some pretext would have been anxiously watched for, and eagerly seized, to turn them out with the loss of character; or a new cry against Popery would have been raised, and they would probably have been the victims of it."

There was a general opinion that Lord Eldon would, ere long, be called upon, in the midst of new difficulties, to give fresh proofs of his skill in keeping himself and his friends in place, and excluding his opponents; but this Administration, of which he was the real author,—although supposed to be so rickety,—lasted, with some modifications, till the death of Lord Liverpool—a period of fifteen years. The formation of it is a remarkable era in our party annals. Now Mr. Vansittart (Lord Bexley) was placed at the head of the finances; Lord Castlereagh became leader of the House of Commons; and Mr. Peel (our illustrious Sir Robert) began his official career as Irish Secretary, to give assurance to Orangemen that their ascendancy would ever be preserved.

The first assault on the new Government was made by Lord Wellesley, who delivered an admirable speech in favour of the Irish Catholics. This was answered by the Lord Chancellor, who said, "There is no wish nearer my heart than to be convinced that I am wrong,—in which case I will, without hesitation, vote for the resolution of the noble Marquess. But it shocks me much to see the descendants of a Somers and a Hardwicke act so oppositely to the principles of their ancestors. If the present motion be carried, the noble Marquess and I may shake hands;—but, as I hope for God's mercy, I do not think I shall be living under the same constitution as hitherto." At the same time he was so far softened as to move the *previous question*, "that he might not, by a direct negative, once and for ever shut the door of conciliation against the Roman Catholics, though he was anxious at the same time not to disguise from them his own objections, on constitutional

grounds, to their claims." ^a Such progress had public opinion made on this subject, that it had penetrated the House of Lords, and the previous question (to the horror of the Lord Chancellor, who was observed to be deeply affected as he announced the division) was carried only by a majority of *one*, the numbers being 126 to 125.

He was, if possible, still more annoyed by the proceedings in Michael Angelo Taylor's committee on "the delays in Chancery," and by the complaints on this subject of several members of the House of Commons, who maliciously insinuated that the accumulation of arrears arose chiefly from the Lord Chancellor neglecting his judicial business for political intrigue. Thinking that he was abandoned by his colleagues, he was in such a rage that he threatened to resign, and to leave them to the fate which, without his patronage, would speedily overtake them. Thus he vented his feelings to Sir William:—

"Really, as to the Government, I don't care one farthing about it. *I am mistaken if they do not mainly owe their existence, as such, to me*; and yet I have been, in my judicial capacity, the object of the House of Commons' persecution for two years, without a lawyer there to say a word of truth for me; and though I have pressed, for years past, the importance of being supported there by some individuals in my own department of the profession, not the slightest notice of this has been taken in their arrangements; I have been left unprotected as before,—and so unprotected I cannot and will not remain.

"The Prince vows annihilation to the Government if I go; and I suppose would resort to Canning and Wellesley. But I cannot feel the obligation I am under of being hunted in the House of Commons without more of protection than I have had—of bearing that the business of the Court of Chancery should be tumbled out at the end of the session, as it was, without communication with me."

However, he was much comforted by having the honour, at the prorogation, of entertaining at dinner his Royal Highness the Regent, with whom he was now a special favourite, and who, enjoying the splendid hospitality and gay good humour of Bedford Square, forgot that the Princess of Wales had sat in the same room—at the same table—on the same chair—had drunk of the same wine—out of the same cup,—while the conversation had turned on her barbarous usage from her husband, and the best means of publishing to the world *her* wrongs and *his* misconduct.

When the Chancellor retired to Encombe, he wrote the fol-

lowing *résumé* to his friend Dr. Swire—which, if not so rich as that of the preceding year, will be found very characteristic and entertaining :—

“My attention has been utterly distracted by the events of a year which, in their extraordinary nature so far as they respect myself, have surpassed all the extraordinary circumstances which even my chequered life has produced. I could not doubt that at the close of the Regency year, the 18th February, I should have had my dismissal—so sure was I of that, that when the Prince sent for me on the 17th, his commands reached me sitting for my picture *in my robes*. When I went he expressed his surprise that I appeared in a morning in a laced shirt; I told him what I had been about: he then expressed surprise that I could find any time for such a business: my answer was that the fact proved that that was difficult; that the picture had been asked nearly two years for the Guildhall at Newcastle, and that, my countrymen wishing it should be in the Chancellor's robes, I could not delay beyond that day in which I might for the last time be entitled to wear them. He smiled, and next day satisfied me that I needed not to have been in such a hurry. This was curious enough, but is literally a fact. Well, after this poor Perceval was assassinated. By the way, I had a pretty narrow escape. It is said,

‘Mors sola fatetur
Quantula sint hominum corporacula;’

but I have learned facts of poor Perceval's life, which I never should have learnt but in consequence of his death, and which prove him to have been a most extraordinarily excellent person. Here again, however, I thought I should sing ‘Nunc dimittis.’ I appointed and attended a Recorder's report, which I thought it unmanly to leave to a successor, on a Monday, as I was morally certain that I should not be Chancellor on the usual day, the Wednesday. But whether Grenville and Grey did not wish to be Ministers, or whether they would not be Ministers unless they could bind kings in chains, I don't know. The Tuesday put my wig and gown once more fast upon my head and back, and I am now just as uncertain when I shall see the blessings of final retirement as I was before the King's illness. What a life of anxiety (about myself certainly in no degree such) I led during these scenes, must be reserved, if it is to be described, till some happy hour of conversation between us shall be vouchsafed me by Providence. I concluded my stay in town by the Prince Regent's dining in Bedford Square with a man whom he had hated more than any other in his father's dominions, according to his unreserved confession.” [After stating his determination to fight to the stumps against Catholic emancipation, he thus concludes:] “And now, dear Sam, I come to a close. Retained in office, with no wish to remain in it, I am praying for some fair opportunity, some honourable reason, for quitting. I grow old; business increases; my ability to discharge it does not improve. These, so help me God, are the reflections which have occupied my anxious thoughts

during the last winter, and yet, in this malignant world, whilst the Regent knows my wishes perfectly, I am supposed to be clinging to office, and intriguing for others who are anxious for it. God forgive them!"

During the autumn, part of his house at Encombe was destroyed by a fire. This, if it did not produce at the time as beautiful a letter as that from Sir Thomas More on a similar occasion, he afterwards described very graphically in his old age:—"It really was a very pretty sight," said he, "for all the maids turned out of their beds, and they formed a line from the water to the fire-engine, handing the buckets: they looked very pretty, *all in their shifts*." While the flames were raging he was in violent trepidation about the Great Seal, which, although he was not in the habit, like one of his illustrious predecessors, of taking it to bed with him, he always kept in his bedchamber. He flew with it to the garden, and buried it in a flower-border. But his trepidation was almost as overwhelming next morning, for, what between his alarm for the safety of Lady Eldon, and his admiration of the maids in their vestal attire, he could not remember the spot where the *clavis regni* had been hid. "You never saw anything so ridiculous," he said, "as seeing the whole family down that walk probing and digging till we found it."

Considering that Lord Eldon had actually formed the present Cabinet, I am much surprised to perceive the inconsiderable influence he seems to have enjoyed in it, and how little he was consulted by Lord Liverpool, whom he had made Premier. He justly complained that the Attorney and Solicitor-General had been appointed without his sanction, and that neither was taken from his Bar;—Sir Thomas Plumer practising chiefly in the Court of Exchequer, and knowing little of equity; and Sir William Garrow, since he left the Old Bailey, confining himself to the Court of King's Bench, and being, notwithstanding his great natural acuteness, utterly ignorant of law, as well as of equity,—so that they could render him no assistance in the attacks made upon him in the House of Commons respecting delays in the Court of Chancery.

It further appears, from a letter to him from Lord Liverpool,* that the important resolution of dissolving Parliament this autumn was absolutely adopted without any previous communication with him, and he was at once summoned to attend a council, when the proclamation for calling a new

* 18th Sept. 1812.

Parliament was to be signed by the Regent. The reasons which led to this measure were the mutinous vote of the House of Commons on Mr. Stuart Wortley's motion; the recent victory at Salamanca; a renewed cry against Popery; and a plentiful harvest, which had, as usual, given the people a high opinion of the wisdom of the Government. For these reasons I doubt not that Lord Eldon would have concurred in the resolution; but it surprises us to find him unceremoniously required to put the Great Seal to writs for the new elections. If he was at all hurt, he must have been comforted by finding that the result of the contests which ensued was generally in favour of the "No Popery" candidates, and that the Government was henceforth sure of a commanding majority in both Houses.

The session was opened with much pomp. For a good many years past, from the infirmities of George III. and the dislike of the Regent to appear in public, the prerogative of the Crown, in parliamentary proceedings, had only been exercised by commissioners,—but the Regent was prevailed upon to deliver, in his own person, the speech declaring the reasons for summoning this Parliament, and, to the horror of some over-rigid adherents of hereditary right, by the Chancellor's advice he took his seat on the throne—of course still speaking "in the name and on the behalf of his Majesty." He had to announce the diminished hope of his Majesty's recovery."

"The Orders in Council," found by experience to be so detrimental to our own commerce, had provoked neutrals to set up unwarrantable claims, which would have been fatal to the naval superiority of England,—and we were now at war with the United States of America, who even denied our right to reclaim our own seamen, if they had obtained letters of naturalization from a foreign government. In a debate upon an address to the Regent, to assure him of the support of Parliament in this new contest, Lord Eldon said, "There was no question in the whole course of his political life, on which he had given his opinion more reluctantly, or more decidedly. If the claim of naturalization insisted on by the Americans were allowed, why should it not be made by other countries? If a residence of five years established the right, why not a residence of one month? It would thus be easy, by the offer of impunity, and by the temptation of

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high pay, to seduce our seamen into the service of rival states. Unless America should think proper to alter her tone, he did not see how the national differences could be settled. "As an adviser of the Crown, he would never consent to an armistice on the condition of appearing to hesitate about a right so vitally affecting our honour and our interests as a nation." The address, though carped at by some Opposition peers, was carried without a division."

Lord Eldon at last pushed through Parliament a bill which ought to have been passed ten years sooner—for the appointment of a new judge in the Court of Chancery, to be called VICE-CHANCELLOR.^o This bill was unaccountably opposed by some who had been loudest in complaining of delays in the determination of equity suits; and, I am concerned to say, the most zealous of those was the enlightened and patriotic Romilly. He was far above the prejudice of considering the system of equitable judicature handed down to us from remote antiquity as absolute perfection, and he could not have been swayed by any consideration that his business at the bar was to be scattered among new competitors; yet he spoke and wrote against a necessary and palpable improvement as if he had been fighting against the repeal of the Bill of Rights. Such was the arrear of appeals and writs of error in the House of Lords, that, according to the past rate of despatch, they could not have been decided in less than twelve or thirteen years—to say nothing of the new arrear which would accumulate in that interval,—and a cause could not be brought to a regular hearing in the Court of Chancery for a good many years after it was ripe for being heard. No better plan was suggested for curing the evil. "Lord Eldon expressed his conviction that when he should be dead and gone, the subjects of this country would feel the salutary and satisfactory operation of a measure which tended to the speedy decision of their appeals to that House, and of their suits in the Court of Chancery. Attacks had been made on his judicial conduct which he would not deign to repel; but he would assert that no man, however experienced, vigorous, and industrious, could get through the business now cast upon the Lord Chancellor. He reminded the House that the visible occupations of that functionary were not alone to be regarded; a Chancellor must give his nights as well as his days to the consideration of his duties; he must pursue them

even in the retirement of his house, and in the privacy of his closet, if he meant to do justice."

This prophecy has been amply fulfilled; and the increasing pressure of business has rendered necessary the creation of two additional Vice-Chancellors—so that at present there is no arrear of appeals or writs of error in the House of Lords; and in the Court of Chancery every cause may be heard as soon as it is ready to be set down for hearing. Nor will any one who sees how the Woolsack is at present occupied by a consummate Equity Judge, much honour the *clairvoyance* of those who asserted that after the creation of the office of Vice-Chancellor the Lord Chancellor would be a politician, orator, or man of letters.¹

Sir Samuel Romilly's spleen, however, induced him to animadvert with bitter, and, I think, unjust severity upon the individual who first filled the office:—

"A worse appointment," says he, "than that of Plumer to be Vice-Chancellor could hardly have been made. He knows nothing of the law of real property, nothing of the law of bankruptcy, and nothing of the doctrines peculiar to courts of equity. His appointment to this office is the more extraordinary, as the Chancellor is fully aware of his incapacity to discharge the duties of it; and as Richards, who is certainly the best qualified for it of any one now in the profession, and whose politics could raise no objection to his promotion, has been always considered as the Chancellor's most intimate private friend. The Regent certainly cannot have made it a point to have Plumer promoted, since he is one of the avowed authors of the Princess of Wales's defence, which abounds with the most injurious insinuations against the Prince. The only explanation of all this is, that, with the rest of the Ministry, Plumer has a very strong interest; that they have earnestly pressed his appointment, and have represented that it would be a great slight upon him if he were to be passed by; and that the Chancellor has not on this, as he never has on any former occasion, suffered his sense of duty towards the public, or his private friendship, to prevail over his party politics."

Sir Thomas Plumer, although he had not enjoyed the advantage of being brought up in the Six Clerks Office, and although he was not a profound jurist, was by no means ignorant of the law of real property, or of the law of bankruptcy, and he had practised on the Equity side in the Court of Exchequer for many years. His judgments as Vice-Chancellor, and Master of the Rolls, sneered at by some old

¹ Parl. Deb. vol. xxiv. xxv.

² Surely this cannot be understood as a sarcasm on Lord Cottenham.

Chancery practitioners when they were delivered, are now read by the student with much profit, and are considered of high authority. I do not understand how it would have been any mitigation of Lord Eldon's misconduct that the Regent had pressed the appointment; but if it would, I do not see why he should be so positively deprived of the benefit of it,—for the Chancellor himself, “one of the authors of the Princess of Wales's defence, abounding with the most injurious insinuations against the Prince,” had grown into his Royal Highness's special favourite.

I am sorry that the Vice-Chancellor's Bill, which had become indispensable for Lord Eldon's own convenience, is the only instance of his doing any thing for the improvement of our institutions. He continued as fierce as ever in his opposition to Romilly's noble endeavours to mitigate the severity of the criminal code, and this session he again threw out the bills for taking away the penalty of death from shoplifting and stealing in a dwelling-house, asking triumphantly, “Is it an encouragement or discouragement in the eyes of any man of common sense, to commit a crime, that instead of being hanged if he commits it, he will at most only be transported?”^a

But one liberal measure passed—without meeting the smallest opposition, and hardly exciting any notice either in or out of Parliament—the very identical measure which in the year 1807 had turned out “All the Talents,” and set the whole country in a flame—the Bill to allow Roman Catholics to hold commissions in the army as field officers! It was introduced into the House of Lords by the Duke of Norfolk, and Lord Liverpool, the Prime Minister, in a short speech said that he entirely approved of it.^b Nevertheless there are indiscriminate admirers of George III. who still applaud his policy when he not only refused his assent to this measure, but required a written pledge from his ministers that they never again would propose it to him.

During the present session of Parliament the disputes between the Prince and Princess of Wales again came before the public, and at one time seemed likely to lead to a change of the Government. Without any new levity being imputed to her, fresh restrictions were put upon her intercourse with her daughter. To these she would not quietly submit, and she

^a 25 Parl. Deb. 525. Two royal Dukes, the majority.
^b 53 Geo. 3, c. 128.

wrote a letter of remonstrance to the Prince, which was thrice sent to Carlton House, and thrice returned unopened. She then wrote a letter to Lord Liverpool to be communicated to the Chancellor, complaining that she was debarred even of the means of stating her wrongs and asking redress. The following answer was returned to her :—

“ Lord Liverpool begs leave to inform her Royal Highness the Princess of Wales, that he communicated to the Lord Chancellor, according to her Royal Highness's desire, the letter which he received from the Princess on Sunday night. He has likewise thought it his duty to lay that letter before his Royal Highness the Prince Regent.

“ The Lord Chancellor and Lord Liverpool have never declined to be the channel of any communications which the Princess of Wales might be pleased to inform them that her Royal Highness was desirous of making to the Prince Regent through his confidential servants; and they would have been ready to have submitted to his Royal Highness any points in the copy of the letter transmitted by the Princess to Lord Liverpool, which it might have been their duty to have brought under his Royal Highness's consideration, if the Princess had signified to them her intention that the communication to his Royal Highness should have been made in this manner. But it must be for the Prince Regent himself to determine whether he will receive, in the manner proposed, any direct communication by letter from the Princess of Wales, or enter into any correspondence with her Royal Highness.

“ The Prince Regent has commanded Lord Liverpool to state, that he adheres to the resolution which he has already expressed in this respect, and he has directed Lord Liverpool, therefore, to return her Royal Highness's letter.”

Cochrane Johnstone soon afterwards made a motion on the subject in the House of Commons. Mr. Whitbread became the advocate there of the Princess, and her cause was taken up with warmth by the Livery of London. Those proceedings caused much consternation in Carlton House, and the Prince did not think that he was sufficiently supported by his ministers, although they had gone quite as far as any regard to decency would permit in humouring his caprices. In the debate on Cochrane Johnstone's motion, Romilly had spoken merely to defend those concerned in the investigation of 1806—but a hope was entertained that he would zealously take part with the Prince, and the Great Seal was to have been his reward. The negotiation was opened through Mr. Nash, the architect, who was a private friend of the Romillys, and who, since his laying out “ Regent Street ” and the “ Regent's

Park," had been patronised by the Regent. He had several times tried in vain to induce Romilly to go to Carlton House, that he might advise his Royal Highness on the course he should pursue in counteracting the schemes of the Princess. The following entry gives an account of a new attempt:—

"March 13th. Mr. Nash called upon me again. He told me that his former visit to me was made at the request of the Regent, and that he had since had much conversation with him; that the Prince was still desirous of seeing me, and said that he had a right to consult me as his counsel, and that as such I was retained for him. I told Mr. Nash that, in all his Royal Highness's private concerns, he had, undoubtedly, a right to command my advice and assistance, but that the conduct of the Princess of Wales had become a matter of state; had been submitted to the consideration of committees of the Privy Council; had been a subject of consideration by the Cabinet, and was as much a matter of public concern as the war with Spain or with America, and that it was impossible for me to advise with the Prince upon it. He had some more conversation, in which he said that Lord Yarmouth had asked him whether he thought that I was so much of a party-man as on that account to have any personal objection to himself; and he asked, but as entirely from himself, 'Whether I should think it a duty to refuse the Great Seal if it were offered me, unless all my political friends formed part of the Administration?' I told him, that it was not by party motives that I was actuated, but that my opinion was, that no good could be done to the country unless those men who had acted on Mr. Fox's principles were in administration, and that I should not consent to form part of any Administration in which they were not comprehended.

"17th. Mr. Nash called upon me again this morning. He said he came to renew the subject of our last conversation. That he was extremely anxious I should see the Prince; that the Prince had no person who could speak honestly and openly to him; that he thought that if I saw him, what I should say to him might lead to a total change of the Administration; that he was still attached to his former political friends.

"21st. I dined to-day at Nash's. To my surprise, Lord Yarmouth dined there. Before he came in, Nash took me aside, to tell me that every thing was in confusion at Carlton House; that this was the moment for bringing about a change of Administration; that he was himself most anxious that it should be effected; and that I was the link by which the Prince might be reunited with his old political friends. I told him that to me this really appeared to be quite impossible. He said that he had, however, thought it right to apprise me of this, and that he had again had a long conversation with the Prince last Friday."

By a letter from Lord Eldon to his brother, written about the same time; it appears that the Prince, while he was striving to lay hold of all the Chancellor's patronage, was quarrelling with him for not going far enough about the Princess. This letter is in answer to an application for a Cursitorship:—

"It is absolutely impossible, and I am very sorry for it, that I can avail myself of this occasion to do what you wish. Some one of my own *secretaries* must have the Cursitorship—they have a *right to it*—the Commissionerships are pledged ten deep; and, as to the private secretaryship, that I must dispose of without reference to any body but myself, if I am to continue Chancellor. I doubt whether I am; the Prince having applied for all, and I having refused him all. As to the private secretaryship, it distresses me so much that it is vacant, that I sincerely wish to put an end to my own office. Excuse the haste which I write with from the Bench, and excuse any thing improper, for I mean nothing to be so; but my soul is heavy. I am too low, and too ill, to mix with the world, and I therefore absented myself yesterday, and shall do so to-day. The P. has been treating me with so much unkindness, because I won't do as to his wife and daughter as he wishes—in a way,—that one more such interview as I have had, if it occurs, will save me the trouble of appointing to the secretaryship, or any thing else, where the officer goes out of office with the Chancellor."

This storm, however, soon blew over. If the Regent had ever any intention to do more than amuse Romilly, with a view to get a speech from him in the House of Commons, it was abandoned, and his Royal Highness wrote to Lord Eldon such kind and familiar notes as the following:—

"MY DEAR FRIEND,

"Pray give me a call on your way home, when your Cabinet breaks up, as an idea has struck me which I wish to talk over with you for five minutes, in order that you may turn it over in your mind before to-morrow morning. Just send me a line to mention about what hour I may be likely to see you, in order that I may be in the way, and not keep you waiting.

"Ever sincerely yours,

"GEORGE, P. R."

A letter to Dr. Swire from the Chancellor shows that by the autumn of this year he had gained a complete ascendancy over the Prince, and was very proud of him as a pupil, and a convert. After mentioning as "a piece of Church news" the appointment of Dr. Parsons as Bishop of Peterborough, it thus proceeds:—

"He is a stout fellow, and right, I believe, upon points of modern controversy,—the Catholic question particularly; and my young master, *who is as eager as his father was upon that, and of the same way of thinking*, seems to me to be looking out very sincerely for those who are able and willing to support Church and State as we have had them in times past. What a blessing to himself and to the country it has been, that the Prince did not succeed to government, upon the King's demise, but under circumstances which have given him an opportunity of learning what he would otherwise never have known,—or, as the Queen puts it, of enabling her son George to learn that his poor father knew better who were his son's best friends than that son himself did! He is conducting himself really extremely well. His father, he says, often told him not to part with the Chancellor; but he owns to me that he hated me more than he detested any other man in the kingdom. At present many, I believe, think he is too much attached to me, and I am sure that it is impossible for a human being to treat another with more confidence and regard than he does me."

Ever afterwards till the formation of Mr. Canning's Government, there seems to have been the most perfect cordiality between the Chancellor and his "young master," and we hear no more lamentations about "the dear old King."

Although the Regent cannot be said to have displayed any very high public or private virtues, and his ministers, with Lord Liverpool as their chief boast, were men much inferior in ability to those who had been at the head of affairs when such disasters befel the country during the American war and in the late coalitions against France,—we are arrived at one of the most glorious and prosperous æras to be met with in English history. Having gained victory after victory, Wellington was descending the Pyrenees into the plains of Languedoc; and Napoleon, having lost amidst the snows of Russia the greatest army ever assembled in modern ages, was gallantly, but vainly, striving to defend his capital against hordes collected from every clime between the river Rhine and the wall of China. At last the advance of the English upon Paris was stopped by a peace which the allies dictated,—Louis XVIII. was king of France and Navarre,—and he who had threatened to make Britain one of his satrapies was hailed as "Emperor of Elba!"—In the general illumination of London to celebrate these successes there were vaunting mottoes in foreign languages; but Lord Eldon, with piety and good taste, displayed, by variegated lamps upon the front of his house in Bedford Square, the words, "THANKS BE TO GOD!" He was much cheered by the mob; and he

then little thought that within a year he and his family were to stand a siege in this very house, under serious apprehension of perishing by fire or by the sword!

The session of 1814, which did not begin till the 23rd of March, was spent almost entirely in votes of thanks and addresses of congratulation. On the 28th of June A.D. 1814. Wellington took his seat for the first time in the House of Lords, having been, while serving in the Peninsula, by successive patents, upon gaining fresh victories, created a Viscount, an Earl, a Marquess, and a Duke. Here was an opportunity for eloquence from the Woolsack, exceeding any enjoyed by Lord Cowper in the reign of Queen Anne. I am sorry that the House of Lords' speech of congratulation to "the Hero of a hundred battles" was a most wretched performance, and the meanness of it was the more striking when it was compared with the soul-stirring language in which the thanks of the House of Commons were returned to him, three days afterwards, by Speaker Abbot.* I cannot understand how the Chancellor, conscious of his own deficiency in literary composition, from having read nothing but briefs for so many years,—should not have asked his brother, Sir William, to aid him,—as he did when, appointed High Steward of the University of Oxford, he expected to be called upon for a Latin epistle. The only sentence which he uttered above clumsy common-place twaddle was that in which he alluded to "a circumstance singular in the history of that House, that before his introduction he had successively gone through every dignity of the peerage in this country which it was in the power of the Crown to bestow." And here he was inaccurate, for Wellington was made a Viscount when first ennobled, without having previously held the rank of a Baron.†

The allied Sovereigns coming to London after the peace, Lord Eldon was presented to them, and several times met them in society; but his ignorance of all Continental languages prevented them having any conversation with him,—which was a great disappointment to some of them, from the high consideration they observed that he held among his countrymen.

He used to relate an anecdote of this visit which, if

* 23 Parl. Deb. 490.

† Lord Eldon had failed signally (although the occasion was much less memorable) in returning the thanks of the House, in 1810;

to Lord Gambier, for the victory won by him in Basque Roads.—See Parliamentary Debates, xv. 355.

genuine, he must have heard in a jovial moment from the Regent himself. The Emperor Alexander, scandalised by the disturbance which the Princess of Wales created at the Opera House and other places to annoy her husband, though himself living on bad terms with the Empress, used the friendly freedom to admonish his Royal Highness to be more regardful of the decencies of domestic life. Next day they were riding together, in the same carriage, through the Strand, in the midst of an immense crowd, who generally sympathised with the supposed wrongs of the Princess,—when a greasy citizen actually put his head into the carriage, and hallooed out, “Where’s your wife? Go home and live with your wife.” Whereupon the Regent, with much readiness, said, “Cela regarde votre Majesté Impériale.”

There now arose in the Royal Family another controversy, which, I think, Lord Eldon and his colleagues might, and ought to have prevented. The Regent wished that his daughter should be married to the Prince of Orange, heir apparent to the new kingdom of the Netherlands. Politically this was not a wise arrangement, it being clearly expedient to select, as the consort of the heiress of the throne of England, a foreign Prince of high lineage and distinguished personal qualities, without any foreign dominions,—that the inconveniences experienced in four reigns, from our connection with Hanover, might never return. A still more serious objection was, that the Princess Charlotte, from the moment that a hint was thrown out of such a match being in contemplation, testified a deep and insuperable aversion to it, notwithstanding the gallantry of the Dutch Prince. However, all objections were overruled by her father and his ministers. Previously to framing a convention on the subject with the Government of the Netherlands, Lord Liverpool thus addressed Lord Eldon:—

“Upon the principle, I conceive there is no difficulty. One point is indispensable,—that the sovereignty of Great Britain and of Holland shall never be in the same person.

“Another is desirable, but not indispensable,—that the succession to the two sovereignties shall, if possible, go to the descendants in different lines, so that their respective pretensions may not afterwards clash.

“With respect to the Hereditary Prince of Orange, we cannot call upon him to give up his rights as future sovereign of the Netherlands. But he will never be King of this country, nor be any thing in the country, when he resides here, but a subject. His eldest son, if he

lives, will be King of Great Britain. There is no difficulty therefore about excluding him specifically from the sovereignty of Holland. His second son, it is proposed, should succeed to the sovereignty of Holland. If, by the death of his brother, he succeeded to the sovereignty of Great Britain, he of course must give up the sovereignty of Holland. But the question of doubt is, whether, if he succeeded to be *heir apparent* or *heir presumptive* to the sovereignty of Great Britain, he should thereby forfeit the sovereignty of Holland.

"Is not this a Dutch question, and might it not be left to the Dutch legislature to determine? All *we* are bound to provide is, that the two sovereignties shall not be in the same person; and we have no objection to stipulate that the first-born son of the marriage shall not succeed to the sovereignty of Holland.

"Surely there can be no difficulty in providing that all other contingencies as to the sovereignty of Holland shall depend upon the laws of Holland, provided always that the two sovereignties never are vested in one person.

"This can involve us in no difficulty, because it is not proposed to make any alteration in the succession to the throne of Great Britain.

"I wish you would try to draw up a short stipulation in this sense and to this effect; and I am anxious, for reasons that will occur to you, that it should be done soon."

This was a much more difficult "settlement" than any he had been instructed to draw while practising as a "conveyancer," and it might have given rise to many questions as puzzling as "whether, by the treaty of Utrecht, the issue of the Montpensier marriage be cut off from the succession to the Crown of Spain?"

The political obstacles would have been surmounted, but the young lady was inflexible. We know, on the authority of Lord Brougham, to whom she applied for advice, that the match continued the subject of unremitting negotiation between her and her father: "An attempt had even been made, through one of his law officers, to persuade her that, after receiving some presents, and saying things construed into promises, she could be compelled by a Court of Equity to perform the contract. This strange doctrine, this new kind of equity, she had met with admirable presence of mind, and indeed skill, declaring her ignorance of the law, but offering to believe the proposition thus (by way of threat) laid down, —provided, to prevent all mistakes, they who stated it would put it in writing, and sign their names to it, that she might show it to Mr. Brougham."

No more was heard of this extension of the doctrine of *specific performance*; but still the pressure upon her was so great, that, on the 12th of July, she actually eloped from Warwick House, where she was established, under the care of the Bishop of Salisbury, and tried to find an asylum in her mother's house in Connaught Place. Mr. Twiss says that this was in consequence of the Regent and the Bishop, her tutor, having unexpectedly visited her, and, pronouncing the dismissal of her attendants, having declared that she was to be taken to Carlton House; whereupon, requesting leave to retire, she escaped, by the back staircase into the street, and hurried into a hackney-coach; and that the Duke of York and the Lord Chancellor, as soon as the place of her retreat was ascertained, proceeded thither with instructions from the Regent to bring her back.* To complete this version of the story, Lord Eldon himself is supposed to have added the following narrative:—

"When we arrived, I informed her a carriage was at the door, and we would attend her home. But home she would not go. She kicked and bounced; but would not go. Well, to do my office as gently as I could, I told her I was sorry for it, for until she did go, she would be obliged to entertain us, as we would not leave her. At last she accompanied us."

"But," says Lord Brougham, "this is a perfect misstatement, indeed a pure fiction, and there are three persons yet living who know it to be so, and having read the above lines, agree in so declaring it. When the Princess's escape became known at Carlton House (for it is not at all true, as stated by Mr. Twiss, that the Prince and Bishop went to see her at Warwick House, to inform her of the new constitution of her household, and that she asked leave to retire, and escaped by a back staircase), the Regent sent notice to the heads of the law, and of his own Duchy of Cornwall establishment. Soon after these arrived, each in a separate hackney-coach, at Connaught Terrace, the Princess of Wales's residence. These were the Chancellor, Lord Ellenborough, Mr. Adam, Chancellor of the Duchy of Cornwall, Mr. Leach, the Bishop of Salisbury, and afterwards the Duke of York. There had already come to join the Princess Charlotte, Miss Mercer, now Lady Keith and Comtesse de Flahault, who came by the Regent's express desire as his daughter's most confidential friend; Mr. Brougham, for whom the young Princess had sent, as a person she had already often consulted; the Duke of Sussex, whose attendance he had taken the precaution of asking, knowing that he happened to dine in the immediate neighbourhood; the Princess of Wales too had arrived from her villa at Blackheath, where she was when Mr. Brougham and Miss Mercer arrived; her Royal High-

* Twiss's Life of Eldon, ch. xxxv.

ness was accompanied by Lady Charlotte Lindsay, then in waiting. Dinner had been ordered by the Princess Charlotte, and the party, except the Duke of Sussex, who did not immediately arrive, were at table; when from time to time the arrival of the great personages sent by the Regent was announced, as each of their hackney-coaches in succession came into the street. Some were suffered to remain in these vehicles, better fitted for convenience than for state; but the presumptive heiress to the Crown having chosen that conveyance, it was the humour of the party which she was now delighting with her humour, and interesting by her high spirits, like a bird flown from a cage, that these exalted subjects should become familiar with a residence which had so lately been graced with the occupancy of their future sovereign. Exceptions however were made, and the Duke of York immediately was asked into a room on the ground-floor. It is an undoubted fact, that not one of the persons sent by the Regent, not even the Duke of York, ever was in any of the apartments above stairs for one instant until the young Princess had agreed to leave the house and return home. The Princess of Wales saw the Duke of York for a few minutes below; and this was the only communication between the company above and those below—of whom all but the Duke and the Bishop remained outside the house. After a great deal of discussion the Princess Charlotte asked Mr. Brougham what he, on the whole, would advise her to do. He said,—‘Return to Warwick House or to Carlton House, and on no account pass a night out of it.’ She was exceedingly affected—even to tears—and asked if he too refused to stand by her. The day was beginning to break; a Westminster election to reinstate Lord Cochrane (after the sentence on him which abolished the pillory, and secured his re-election) was to be held that day at ten o’clock. Mr. Brougham led the young Princess to the window, and said, ‘I have but to show you to the multitude which in a few hours will fill these streets and that Park—and possibly Carlton House will be pulled down—but in an hour after the soldiers will be called out, blood will flow, and, if your Royal Highness lives a hundred years, it will never be forgotten that your running away from your home and your father was the cause of the mischief; and you may depend upon it the English people so hate blood that you will never get over it.’ She at once perceived the truth of this statement, and without any kind of hesitation agreed to see her uncle below, and accompany him home. But she told him she would not go in any carriage except one of her father’s, as her character might suffer; she therefore retired to the drawing-room until a royal coach was sent for, and she then went home with the Duke of York.”

The Princess Charlotte was carried to Carlton House, and was understood to be kept there for some time a close prisoner. In consequence her uncle the Duke of Sussex put several questions to Ministers in the House of Lords, “Whether, since her removal to Carlton House, she was

allowed that degree of communication with her friends and connections which she had enjoyed in Warwick House?" "Whether she had liberty of communication by letter?" "Whether she was in that state of liberty which persons considered not in confinement ought to be in?" and "Whether, as she had reached the age of eighteen, there was any intention of providing an establishment for her suitable to her rank?" Lord Liverpool having declined to answer any of these questions, Lord Eldon added, "If my noble friend had answered the questions put to him by the illustrious Duke, he would have been guilty of a gross breach of his duty to his Sovereign, and I will tell my noble friend that I never again would have conversed with him. What is meant by the question, 'Whether the Princess is allowed intercourse with her friends and connections (it might as well have been said with her *enemies*) while living under the roof of her royal Father?' Is not this an imputation? But I must look upon it as an animadversion on the Ministers of the Crown with reference to supposed advice. I will now only say that the great person alluded to has the exclusive right to direct the education of his child, and that no man is entitled to interpose between them, and a very strong ground indeed must be previously established to warrant the interposition of Parliament upon such a subject. With reference to the whole of the conduct of the great person alluded to in this affair, I have the satisfaction of being able to state in the face of the country, that he is deserving of the applause and not the censure of mankind."^c

The Duke of Sussex gave notice of a motion respecting the treatment of the Princess Charlotte, but withdrew it, saying, "he had learned that she had been seen riding on horseback in Windsor Park, so that he was inclined to hope that more lenient measures were to be taken towards her." The Lord Chancellor said, "he never had meant to contend that there might not be cases with regard to the treatment of members of the Royal Family, in which it might be the duty of Parliament to interfere, but in the present instance he maintained that no ground had been laid for such interference."^d

The firmness of the Princess Charlotte relieved her from any farther importunity upon this subject, and she afterwards contracted a marriage of affection, which the whole country

^c 28 Parl. Deb. 755.^d *Ib.* 595.

approved, and which promised the most auspicious results, when she was suddenly snatched away to an early tomb.

It might have been supposed that at least in this glorious year, when Lord Eldon had met with so much to gratify him, and so little to annoy him, he might have been tolerably reconciled to the cares of office, but it turns out that all the while he was more eager than ever to get rid of them: thus he wrote to Dr. Swire:—

“I had thought that ere this time I should have been disengaged from the fatigue and oppression (for it begins to be oppressive at my years) of my office. But I have found it more difficult to persuade others than to persuade myself, that it is time for me to go. Providence and the country have bestowed upon me so much more than I could hope or deserve, that I ought perhaps to be somewhat ashamed of quitting my post, when those who are intrusted to judge, think that I may still be useful; but the struggle, between inclination to resign and reluctance to be thought too willing to consult my own ease, cannot last much longer, because it must soon become a question about existence.”^c

The general rejoicings for the triumphant peace of 1814 were soon succeeded by dangerous riots on account of the bill to prohibit the importation of all foreign corn till wheat had reached the price of eighty shillings the quarter, and other *cereals* were proportionally dear. Lord Eldon probably thought, like Lord Sidmouth^d and many other respectable politicians, that foreign corn should at all times be *contraband*, or that the price when importation was to be permitted should have been still higher, -and no blame could have been imputed to him if he had felt and expressed such sentiments. But, in reality, he had taken no part in the corn law debates, except complaining of the violent clamour which had been raised upon the subject out of doors, and very properly resisting a petition from the Lord Mayor and Livery of London to be heard against the bill by counsel at the bar.^e

^c The letter likewise contains much about religion, which I do not copy, that I may avoid all risk of seeming levity upon so awful a subject.

^d See letter, 16th March, 1815, in which he says,—“My apprehension and conviction is, that the protecting price (80s.), as fixed by the bill, is not sufficient to give that confidence to the corn-grower which is essential to the attainment of the great object of the bill,—namely, an ample and independent

supply.” He then goes on to explain that the continual dread of arriving at that price would check the application of capital and labour to the production of grain from our own soil—*Life*, iii. 127.

^e On this occasion, while he was saying, “Why must not Bristol be heard—why not Birmingham—why not Cheltenham why not every town in the kingdom?” the Duke of Gloucester *chimed* ironically and offensively; whereupon Lord Eldon said, with

Nevertheless he was, for his supposed hostility to free trade, specially obnoxious to the mob. Once he was rescued from their violence by Lady Eldon. At the rising of the House of Lords a great assemblage of workmen and apprentices insulted him, as he was waiting for his carriage to return home; but on finding, when it drove up, that his wife, who had been in the habit of coming to fetch him, was in it,—and had not been deterred from her duty by the fear of their violence,—they gave her three cheers, and allowed both of them to depart in peace.

However, in the night of the 6th of March, his house in Bedford Square was attacked by a large body of the rioters, who broke the windows, tore up the iron railings, and bursting open the outer door, rushed into the hall. There they were checked by a few soldiers, called in through a back entry from the British Museum, which was near at hand. As the soldiers entered in single file, Lord Eldon at their head, he exclaimed, "Guards in the rear, reserve your fire." The panic-stricken mob fled. The Chancellor then gallantly sallying forth, brought in two prisoners, and said to them, "If you don't mind what you are about, lads, you will all come to be hanged." On which one of them said,—as their friends were coming to their rescue,—“Perhaps so, old chap; but I think it looks *now* as if you would be hanged *first*.” In telling the story the old Peer would add, “and I had my misgivings that he was in the right. However, I got my wife and children safely into the Museum, and the mob were dispersed by a large reinforcement of soldiers.” The morning after the riot the Duke of Wellington called in Bedford Square to compliment the Chancellor on his escape, and being told of the stratagem which had led to victory he exclaimed, “I am glad, my Lord, that you have taken to act the General only when I have left the field, for you certainly would have beaten me in that career!”

For three weeks his house was a garrison, and during all that time he could only get to Westminster Hall by going stealthily through the Museum Gardens, and diving into all the obscure alleys in which he could find a passage, attended by Townsend the Bow Street officer, and a rear-guard of policemen. Such were the stories he told,—but I think that, like other great lawyers giving an account of their conflicts

great spirit, “The illustrious Duke cries equal, I know all peers to be so.”—30 *Parl. Deb.* 243.
 ‘Hear! hear!’ I wish he would hear; and I now tell him, that as I think all petitioners

with mobs, he must have exaggerated considerably both his perils and his prowess.^a

The discussion about the corn laws and all internal disputes were suddenly suspended by the astounding intelligence that Napoleon had escaped from Elba, had landed at Cannes, had been joined by all the troops stationed at Grenoble, had proceeded in triumph to Paris, and was again established at the Tuileries in the place of Louis XVIII., who had fled to Ghent. Although a distinguished lawyer then thought that the world must be regenerated by the subversion of all the old monarchies in Europe, and joyously tossed up his hat at the thought of the coming confusion,—the rightly disposed of all parties in the state at this juncture cordially concurred in assisting the Government to crush our implacable foe, and to maintain our independence as a nation.

It is not mine to record the glories of Waterloo, and there was no memorable occurrence, within my humble sphere, till, on Napoleon being brought captive in an English ship of war to Plymouth, the question arose, how his person was to be disposed of? Lord Ellenborough, Sir William Grant, Sir William Scott, and other great jurists being consulted, they gave conflicting and very unsatisfactory opinions with respect to the law of nations upon the *status* of the Emperor,—some saying that he was to be regarded as a prisoner of war—others as a subject of Louis XVIII., to whom he should be delivered up to be tried for treason—and others as a pirate or *hostis humani generis*, carrying about with him *caput lupinum*—while there were not wanting persons so romantically liberal as to contend that, having thrown himself on our hospitality, he was entitled to immediate freedom, and that he should be allowed to range at pleasure over the earth. I think Lord Eldon took a much more sensible view of the subject than any of them—which was “that the case was not provided for by any thing to be found in Grotius or Vattel, but that the law of self-preservation would justify the keeping of him under restraint in some distant region, where he should be treated with all indulgence compatible with a due regard for the peace of mankind.” Accordingly, St. Helena was selected as the place of his exile; and to put a stop to all experiments in our Courts, by writs of *habeas corpus*, or actions for false imprisonment, an Act of Parliament was passed to legalize his detention.ⁱ Had the dis-

^a Vide *antè*, Vol. VIII.

ⁱ 58 Geo. 3, c. 22. Lord Eldon very pro-

perly resisted a motion of Lord Holland, for a reference to the opinion of the Judges re-

graceful disputes been avoided which afterwards took place respecting the number of bottles of wine he should be allowed for dinner, and the domiciliary visits to which he should be liable, I believe that his captivity at Longwood would have brought no impeachment on British justice or generosity, either in his own age or with posterity. As things were managed, I am afraid it will be said that he was treated, in the nineteenth century, with the same cruel spirit as the Maid of Orleans was in the fifteenth; and there may be tragedies on the Death of Napoleon, in which Sir Hudson Lowe will be the "SHIRKO"—and even Lord Eldon may be introduced as the *Stern Old Councillor* who decreed the hero's imprisonment.

CHAPTER CCIII.

CONTINUATION OF THE LIFE OF LORD ELDON TILL THE DEATH OF GEORGE III.

It will be impossible for the future historian to clear Lord Eldon's fame from the charge of sadly mistaking his duty respecting the institutions of his own country.

A.D. 1815.

Some thought that with peace a new æra of improvement would have begun, the answer to all attempts at reform during the last quarter of a century having been—"This is not the time for such projects, when we are fighting for our existence;" but Lord Eldon still obdurately defended every antiquated abuse and absurdity which disgraced our jurisprudence. Sir Samuel Romilly sent up from the House of Commons a bill to subject freehold lands to simple contract debts, for the purpose of preventing this fraud (among others), that a man might borrow 100,000*l.* to buy an estate, and dying, leave it unincumbered to his son—without a shilling of the debt being ever repaid. But Lord Eldon rejected the bill, after a long speech, in which he condemned it as contrary to the wisdom of our ancestors, and subversive of the Constitution under which we had long flourished. I believe he

lating to the character in which Napoleon Bonaparte stood after his surrender, and our right to detain him as a prisoner.—8th April, 1816. 33 *Parl. Deb.* 1019.

was quite sincere; and the great bulk of his audience listened to him with reverence—inso much that Lord Grey, who ably advocated the measure, was obliged to give it up without a division.* A few years after, I had the pleasure of humbly assisting my friend Mr. John Romilly, the son of Sir Samuel, to pass this very bill through Parliament—when, even in the House of Lords, it met with hardly any opposition. Its justice and expediency are now so universally acknowledged, that people can hardly believe there was so recently a state of the public mind which could permit its rejection.

Strange to say, Lord Eldon countenanced an innovation in the administration of justice in Scotland, although it was most strenuously resisted by many enlightened men in that country, and among others by Sir Walter Scott,—the A.D. 1816. introduction of trial by jury in civil causes. I must confess that I myself entertain very serious doubts as to its expediency. This mode of trial works admirably well in England, where, from long usage, the procedure is so well understood, and it accords entirely with the habits of the people as well as with the frame of our laws. But where the relative duties of judge and jury were necessarily so little understood,—where issues of fact were to be framed in every cause by an officer of the Court, not always competent to understand on what facts the judgment was to depend,—where the Bench and the Bar were imperfectly acquainted with the rules of evidence,—and “bills of exceptions,” “special verdicts,” and “new trials,” were terms not to be found in all Erskine’s Institutes, or in all Morrison’s Dictionary,—there might have been a misgiving that the reformation, however plausible, would produce confusion in practice, and occasion much expense and vexation to the suitors. A better plan probably would have been—separating the law from the facts upon the record—still to have reserved the decision of disputed facts for the Court, and to have improved the manner of taking the written depositions, or to have examined the witnesses in court *vis à voce*. Lord Eldon, however, insisted on at once introducing the English system, and required that the jury should be *unanimous*—contrary not only to theoretical reasoning, but to the experience in Scotland of juries in criminal trials. One great object he had in view was to get rid of the immense number of appeals from the Court of Session to the House of Lords on mere questions of fact, by which his time had been most unprofitably and vexatiously

consumed. The measure was, without difficulty, carried through Parliament; but the expectations entertained from it have been by no means realised, and before long this new system must either be abolished or reformed.

Lord Eldon was not called upon to come forward in debate during the session of 1816, except in opposing a motion in favour of the Irish Roman Catholics; and in spite of his zealous exertions, he was exceedingly distressed to find it supported by a Bishop, and rejected by the alarmingly small majority of four.^m

He was farther annoyed by the return to office of Mr. Canning, whom he regarded as little better than a Whig. Although Catholic emancipation henceforth became an open question, he had the full assurance of Lord Liverpool and of the Regent that it should not be granted. On this understanding alone would he have consented to remain in the Cabinet. My firm belief is, that, in spite of his professions, by which he tried to deceive others, and perhaps deceived himself, he was strongly attached to the Great Seal; but I am sure that he would have resigned it without one moment of doubt, rather than have agreed to a surrender of any of those safeguards which he considered necessary to preserve our Protestant Establishment. His retention of office was probably rendered doubly agreeable to him by the reflection that he could thereby more effectually watch and counteract the dangerous schemes of his latitudinarian colleagues.

Now he had to arrange the preliminaries of the marriage between the Princess Charlotte and Prince Leopold of Saxe Coburg—destined to be followed by other alliances with that illustrious house, which auspiciously promise to connect it for ever with the throne of Great Britain. When the ceremony took place, the Chancellor was treated with peculiar distinction by the Regent, and the royal bride and bridegroom.ⁿ

His graceful manners and skilful tact as a courtier, in which,

^m 73 to 69. 31 Parl. Deb. 1254.

ⁿ The Chancellor and Lady Eldon were likewise present at the wedding of the Princess Mary with the Duke of Gloucester on the 22nd of July following. We have an account of this ceremony in a letter from him to one of his daughters:—"Mamma (Lady Eldon) went through her part of the ceremony capitally well; but dear Princess Mary's behaviour was so interesting and affecting that every body was affected. Even the

tears trickled down my cheeks; and as to Mamma, she cried all night, and nine-tenth parts of the next day." It is delightful to think that this illustrious lady, whose kindness of disposition and exemplary conduct have ever secured to her the admiration and respect of all classes of the community, is still likely to be long preserved, as an example of the union of the highest rank with the highest virtues.

by intuition as it were, the coal-fitter's son, reared in the parlours of Lincoln's Inn, excelled all the hereditary nobility of England, had so completely ingratiated him with his "young master," that he was not unfrequently invited as a guest to the private *symposia* at Carlton House,—where, with his Northern-Circuit stories, he was a full match for professed wits, although he wisely took care to testify a conscious inferiority in jovial powers, as much as in rank, to his Royal Highness, who, in his imitations of Lord Thurlow, and in the relation of ridiculous anecdotes of other public characters, really was a very considerable performer. We have a striking proof of the familiarity with which "Old Bags" was now treated by the man against whom "the Book" had been indited a few years ago, in the notes to him from the Regent, which all conclude "Your very affectionate friend, GEORGE P. R.," or "Very affectionately yours, GEORGE P. R.," and particularly in one urging him to complete some law arrangements without further delay—thus concluding with a very good-humoured caution, that his Lordship should not be quite contented with his own notions of *despatch*: "Forgive me also, my dear friend, if I add, and bring to your recollection (and I can hardly do so without its forcing at the same time a smile on my countenance) that a snail's gallop is but a bad thing, and a very poor pace at best, in most of the occurrences of life, and I am sure that you would particularly find it such in the present." The Chancellor knew too well both his duty and interest ever to forget for a moment that it was his sovereign who jested with him; and therefore while other boon companions were successively cast off, he long retained the favour and the respect of George IV.

The transition from a long war to profound peace, the derangement of our monetary system by the Bank Restriction Acts, and the contemplated return to cash payments, had caused much commercial distress—with want of employment, and a great lowering of wages in many manufacturing districts. The consequence was, a dangerous ferment in the minds of the lower orders. How was this to be met? Said Lord Eldon, Lord Liverpool, Lord Castlereagh, and Lord Sidmouth:—"By suspending the Habeas Corpus Act, by passing a new act against Seditious Meetings, and by making perpetual the Treason Extension Act passed in 1796," which was to expire with the reign of George III." Perhaps they were right; but, after much consideration and experience,

having formed an opinion, that for such an emergency the true remedy is a vigorous execution of the old constitutional law, not new measures of coercion, I think that a mistaken policy was pursued—to which may be ascribed the increased irritation and discontent which prevailed for some years—the outbreak in 1819, called the “Manchester Massacre”—and the supposed necessity for the suspension of the Constitution by the passing of the “Six Acts.” There was not the smallest ground for the imputation thrown upon the Ministers, that they had a plan for permanently encroaching on public liberty, and suspicion of indirect motive could not reasonably be carried farther than that they wished to strengthen themselves as a party, by spreading alarm that there were really plots against the Government which required a prohibition of public meetings without a licence, the detention in prison of persons for political offences for an unlimited time without bringing them to trial, and more stringent enactments against high treason than the law which had been found sufficient in England for four centuries. However, in the session of 1817 the proposed measures all passed, with the zealous, and, I doubt not, sincere advocacy of Lord Eldon, and he went so far as to defend both the legality and expediency of Lord Sidmouth’s famous “Circular” recommending magistrates to hold to bail persons who published libels, without waiting till an indictment should be found against them; which, if acted upon, might (contrary to the intention of the framer of it) have filled the gaols with persons who had written against the existing Administration. Lord Grey having questioned the law laid down in the “Circular,” and censured as unconstitutional the issuing of any instruction to magistrates from a Secretary of State respecting the manner in which they should administer justice to any particular class of offenders, Lord Eldon declared that in his opinion the law was correctly stated in the “Circular,” and contended that there could be no impropriety in a correct exposition of the duty of judges coming from any quarter. He defended the suspension of the Habeas Corpus Act; and so alarmed was he by *frame-breaking*, and other enormities of the “*Luddites*,” that he who had been Attorney-General in the favour of the French Revolution, asserted with much solemnity, that “the dangers of the country were now greater than at any former period when he had known it to be suspended.” He likewise maintained that Government was bound to employ spies, if their aid was necessary for detecting and de-

feating plots.^a We shall see that instead of any misgivings as to the principles on which he was acting—when these measures proved ineffectual—he afterwards demanded, and carried, others much more arbitrary.

The melancholy death of the Princess Charlotte in the autumn of this year, threw every family of the kingdom into mourning, as the loss of a near relative. Lord Eldon, in a very touching statement of the event, after mentioning his being summoned to Claremont to be present at her confinement, and that a bed had been provided for him, while other lords had to sleep on the carpet, says:—"When her labour was over, I saw the babe, and a noble infant it was, as like the Royal Family as possible. I then went into the room where the surgeons were consulting what bulletin of the Princess they should send; and they had actually drawn one up, stating that 'she was going on as favourably as possible,' when Baillie came in, and after reading it, he refused to sign it, for such was not his opinion. We returned to our homes about two o'clock in the morning, and before six a messenger arrived to let us know the Princess was dead."

This catastrophe at first increased the power of Lord Eldon, and would have done so permanently, if not counteracted by opposite influences. The Princess, though sincerely attached to the Protestant Establishment, was believed to have imbibed a strong opinion that its safety would be increased by relaxing the penal laws against the Roman Catholics; the Duke of York, now the heir presumptive to the throne, entertained an opinion, if possible, more adverse to their claims than his father's. He was known, though of mild temper, to be of inflexible resolution, and he naturally felt the highest possible veneration for the great champion of that cause which he had espoused. During an illness which the Regent soon after had, there were speculations that Lord Eldon would not only be Lord Chancellor, but Prime Minister to Frederic I., and that though advanced in years, he would display the energy of a Ximenes in supporting Orange ascendancy in Ireland.

Yet he seems soon after to have been in serious danger of being supplanted by a rival. This was Sir John Leach, who, having in spite of obscure birth and defective education pushed himself into practice at the Chancery Bar, and obtained a seat in Parliament, had gained the notice of the Prince of

Wales by advocating his right to the arrears of the Duchy of Cornwall during his minority, had been promoted to be Chancellor of that Duchy, and had become his Royal Highness's private confidential adviser. On a move in the law, caused by the resignation of Sir William Grant, he was now appointed Vice-Chancellor, and he resolved speedily to be upon the wool-sack. The Princess of Wales, destined so often to be made an instrument of faction and political intrigue, he hoped would accomplish his ambitious purpose.*

This unhappy lady had left England in the year 1814, and in visiting Germany, Italy, and the Holy Land, had certainly conducted herself in a most unbecoming manner, although, from the bad character of most of those who bore testimony against her, there was great difficulty in safely determining to what degree she had carried her violation of the rules of decorum and modesty. As she had been atrociously ill-used by her husband from the moment of her arrival in England, and as she had been finally abandoned by him,—receiving from him what was called a “Letter of Licence,” his Ministers knew that any inquiry into the new charges against her would recoil upon him, would be hurtful to the national morality, and would even be dangerous to the monarchy. They therefore most wisely and properly wished to keep matters quiet between them, and discouraged every suggestion of instituting proceedings of any kind against her. But the Prince was surrounded by “private friends” and flatterers, who made him forget or overlook his own bad conduct towards her, and gratified him with the prospect of actually getting rid of her as his wife. Of these the leader was Leach, who, the more that the proposal of a divorce-suit was resisted by the Ministers of the Crown, the more eagerly recommended it—in the expectation that his Royal Highness would take as the “Keeper of his Conscience” one who gave him such palatable counsel. The death of the Princess Charlotte was urged upon him as re-

* Sir John Leach was a man of unblemished private honour, and no doubt believed the Princess to be guilty; but his eagerness in pushing forward the proceedings against her, contrary to the wishes of the Ministers, drew forth afterwards, from her eloquent counsel, Mr. Denman, the quotation—

“Some busy and insinuating rogue,—
Some cogging, cozening slave, to get
some office,
Hath devis'd this slander.”

The charge receives some countenance from Mr. Wilberforce's *Diary*, lately published:—

“27th April, 1820. The Vice-Chancellor Leach has been trying to root out the Ministry; he has been telling the King that his present Ministers are not standing by him, and that he ought to have a divorce.”—*Life of Wilberforce*, v. 54.

moving all objection to the necessary inquiry, and representations were made to him that he might not only redeem himself from the disgrace of his present conjugal connection, which would become more galling when she might claim to be received as Queen of England, but that he might form a happier union, and provide heirs to the crown in a direct line.

In consequence, the Regent, still elaborately civil to Lord Eldon, and still expecting to overcome all his scruples, wrote him a letter, which, after lamenting that his Lordship had been prevented by indisposition from attending a meeting of the Ministers at Brighton, explained that his Royal Highness was desirous of conferring with him upon the steps to be taken with reference to the conduct of the Princess of Wales, which, he said, "had given great scandal on the Continent, and especially at Vienna, where the Court had refused to receive her"—and thus disclosed his Royal Highness's design: "You cannot, therefore, be surprised (much difficulty, in point of delicacy, being now set aside in my mind by the late melancholy event which has taken place in my family) if I therefore turn my whole thoughts to the endeavouring to extricate myself from the cruellest as well as most unjust predicament that even the lowest individual, much more a Prince, ever was placed in." Inveighing in strong terms against her, and expressing his wish to be unshackled from such a woman, he puts this question: "Is it then, my dear friend, to be tolerated that * * * * * is to be suffered to continue to bear my name, to belong to me and to the country, and that *that* country, the first in all the world, and myself its Sovereign, are to be expected to submit silently to a degradation under which no upright and honourable mind can exist?"

The particulars of the meeting between the Regent and the Chancellor, on this occasion, have not yet been given to the world, but the result had by no means corresponded with the warm wishes of his Royal Highness; for no ministerial measure was instituted respecting the Princess, and the famous "Milan commission," which then took its origin, was left entirely to the management and control of Sir John Leach.

A paragraph, of which Lord Eldon believed that "his Honour" was the author, appeared in the newspapers, stating that "the Lord Chancellor, on account of his age and infirmities, had resolved immediately to resign the

Great Seal, that he might enjoy that dignified repose to which, from his long and meritorious services to the Crown and to the public, he was so justly entitled." The rumour being supposed to receive strong corroboration, particularly from persons connected with Carlton House, was in every body's mouth, and was generally credited; people varying chiefly as to the cause of the unexpected event—some saying that Lord Eldon was sincerely tired of office—more, that he had quarrelled with his colleagues about the Catholic question—and a few of the well-informed whispering that there had been some unpleasant discussions about the Princess of Wales. He himself was thrown into an agony of mortification, and he much resembled, for a time, the old man who had called upon Death to relieve him from his load, when the grisly monarch actually appeared before him. Thus he at last disburthened himself to Sir William, who had written to him to know the truth of the report:—

"DEAR BROTHER,

"Whilst I am ignorant of what you hear in all quarters, *you* are not the only person ignorant of it. A paragraph appeared in a morning paper about a week ago, which informed me of my intention to resign. This may have occasioned much of what you have heard. There are other causes, which may have contributed to the gossip of all quarters. There is a malignity, natural enough, and sufficiently manifest, I think, that leads to observations not met in any manner, that a man, who has been sixteen years and upwards in possession of the Great Seal, is no longer fit to hold it; and this acquires a mighty effect when it is seconded by a conviction in the holder's mind, sometimes betrayed (from the fatigue of what is passed and the dread of what is coming) in expressions (of which you have heard more than any other person) that he has become and is becoming more and more unfit, both with respect to himself and the country, to hold it. In addition to this, the public are very well aware that, as I had no assistance from Ellenborough, and little from Redesdale, in Parliament last session, I have none to look for in the next stormy session from any lawyer in the House: and how I was dealt with towards the close of the last Session in the other House, or rather how I should have been dealt with by Brougham and Co., if I had not myself personally interfered to produce something more decent towards myself, I need not mention. These things also suggest probabilities to all quarters. *There are also persons who have strong interest in first making resignation probable by talk in all quarters, and so accomplishing it.* Perhaps too it is pretty well known that, growing unequal to my judicial duties, I have no influence as to other matters, and this may induce many to represent resignation as probable. The truth too is, that I have long wished to resign—that

I am conscious that I am unable to execute the great duties of my office as they ought to be executed, and that at my time of life my insufficiency must daily increase and be more apparent. Sir William Grant's resignation, too early for himself and much too early for the public, has made a sort of call for my resignation, which I certainly am conscious has been too long delayed. I am, moreover, impressed with a conviction that no presumption can warrant me in supposing that I can, even if I live through another Parliament, live through it with any credit in office; and this leads to a general notion that I should not begin it in office. I am likewise strongly impressed with a persuasion that, at my time of life, I should be thinking much oftener and more seriously of another world and its concerns than it is possible for me to address my thoughts to them in possession of the most laborious office in the kingdom. I add, that I wish too for a little more comfort in this world; for I feel the labours of this office to be such, and myself to be growing so unequal to them, as to feel now the necessity of refusing all invitations out of my house, that I can with any decency refuse, that I may have all my time for purposes to which I feel the whole of it to be insufficient. I have made Grant's for Tuesday next an exception to this. The newspaper paragraph has set the world in all quarters a-talking on this subject. Whatever may be my wishes on this subject, when they became fixed purpose, as such, they would have been first communicated to my wife, to you, and the Regent. In truth, till the meeting of Parliament, it would be nonsense to suffer wish to ripen into purpose. If it would have matured into purpose, it should seem as if it would be in vain. When I attended at Carlton House on Wednesday to seal the consent to a royal marriage, the Prince, led by the newspaper paragraph to the subject, held a language to me (as to his confidence that I would not, to use his expression, 'desert him,' repeating that expression often), which I foresee, whenever the attempt is made to 'abolish' my 'slavery,' will make it no easy matter to effectuate it. But my time of life will compel it against all difficulties, before much longer time can pass, though the conversation to which I allude may postpone it longer than I like. If, to serve my master, I am compelled to remain somewhat longer, he must prevail upon my fellow-servants to take a little more care of my character in the House of Commons than they have hitherto done."

It certainly is very amusing, after observing his rage against the newspaper paragraph, and his indignant charge against those persons who, having a strong interest, tried to accomplish his resignation by talking about it, to watch the workings of his mind. He was afraid that, in complaining of this wicked fabrication, he had betrayed some fondness for the office, which he did not like to acknowledge to himself, much less to his brother, and therefore he gravely talks of his various reasons for resigning. But, then, with wonderful facility, he overrules them all on the simple request of the Regent, "not

to desert him," which he must have known to be insincere; for although Lord Liverpool and his colleagues would have deeply regretted the loss of Lord Eldon, and probably would have refused to admit into the Cabinet the mover of the mischief, his Royal Highness at this time would unquestionably have been delighted to hand over the Great Seal to him who was unscrupulously labouring to gratify the wish nearest his heart. The concluding touch, about the manner in which he had been abandoned in the House of Commons by his "fellow servants" to his enemies, is particularly racy. Yet, though he continued to be more factiously assailed and more feebly defended in the House of Commons, he was prevailed upon to hold the Great Seal above nine years longer, and then he thought that he was ill-used in being deprived of it.

Ministers remained firmly united as to the line of conduct to be adopted in the dispute between the Regent and his wife, till Mr. Canning generously withdrew, in consequence of the unfortunate resolution at last taken, upon her return to this country as Queen, to dissolve their marriage by Act of Parliament. The session of 1818 went off very smoothly.

In support of a bill to indemnify those who had acted under the Habeas Corpus Suspension Act, Lord Eldon said that, "to that Act he believed the tranquillity of the country had been chiefly owing; it had been a mild and merciful measure, preventive of miseries—not productive of them." That such a measure had been found highly useful in former times, by enabling the Government to send Jacobite leaders to the Tower, and although there was no sufficient legal evidence against them to keep them there till the danger of rebellion had blown over, I perfectly understand; but we can hardly now believe, that under such sensible men as Lord Liverpool and Lord Eldon, it should be applied to putting down riots among starving artisans, excited by persons who had no influence in the state, and who could be brought to trial in the ordinary course of law for the offences they had committed.*

There had lately been several Government prosecutions which had signally failed—very much from a feeling that there was a disposition to strain the law both of *treason* and of *libel*;

* Nor was the new Treason Law of the slightest benefit. The counts framed upon it gave Sir Charles Wetherell a considerable advantage in defending Dr. Watson; and the con-

viction of Brandreth and his confederates at Derby was, under the old statute of Edward III.—See *State Trials*, vol. xxxii.

but Lord Eldon in the course of these debates took an opportunity to vindicate all that had been done by the Attorney-General, and to ridicule the notion that libels on the law and constitution should be left unpunished, lest the notice of them should give them publicity."

Now began the agitation of the social question, so very important and so very difficult, respecting the duty of the state to limit the hours of labour in manufactories. He must be an arrogant man who would venture to express a very confident opinion upon it. A bill introducing several humane regulations for the protection of factory children,—brought in by Sir Robert Peel the elder,—coming up from the Commons, Lord Eldon, opposing Lord Kenyon, took what seems *prima facie* to be the sound view of the subject, and, this session, succeeded in throwing it out. He said, "he hoped he should not be suspected of hard-heartedness, if he confessed himself one of those who really thought that philanthropy had not taken its right course in modern times. Varied and conflicting interests should be well balanced before a man of discretion and honesty would pronounce a fair decision. The overworking of children was a misdemeanor at common law, and adults should be allowed to take care of themselves." The same bill, however, was passed in the following session,^a and was found to operate beneficially—so that the principle of state interference was fully established, and the consideration now is one of detail,—*how far* it is expedient to push it.

Lord Eldon strenuously, and I think rightly, opposed Lord Erskine's bill for *declaring* it unlawful for Justices of Peace to hold to bail for libel before indictment. Although Lord Sidmouth's "Circular" urging them to do so might be blamable, the principle of the common law is, that for all misdemeanors supposed to involve a breach of the peace, the offender may be held to bail upon a sworn information before a magistrate; and *libel* clearly comes within this category. The House found that, since the time of Queen Anne, there had been 128 cases in which the Judges of the Court of King's Bench had, as magistrates, held to bail in cases of libel, and the law makes no distinction, for this purpose, between them and common Justices of the Peace. Lord Erskine therefore ought, at all events, to have made his bill *enacting*, not *declaratory*; and I

^a 37 Parl. Deb. 713, 788.

^{*} 59 Geo. 3, c. 68, which limited the time of labour in cotton mills and factories to

twelve hours, for persons under sixteen years of age.

am only surprised that it was not rejected by a larger majority than 31 to 18.⁷

At the close of the session, the Prince Regent in person having delivered a speech in which he not ungracefully drew a contrast between the present state of the country and that in which he had found it when he first began to govern in his father's name, did an act perfectly legal and constitutional,—although not witnessed since the reign of Charles II.,—by actually dissolving the Parliament in the presence of the two Houses, the usual course having been first to prorogue, and shortly after to dissolve by proclamation. But the Chancellor said, “My Lords and Gentlemen:—It is the will and pleasure of his Royal Highness the Prince Regent, acting in the name and on the behalf of his Majesty, that this Parliament be now dissolved, and this Parliament is dissolved accordingly.” It had lasted above six years, and all parted in good humour.*

Lord Eldon, before he retired to Encombe for the long vacation, was summoned to be present at the celebration of the auspicious marriage between His Royal Highness the Duke of Kent and the Dowager Princess of Leiningen, born a Princess of the illustrious House of Coburg; and he lived to see the child of this marriage seated on the throne of Great Britain.

While in the country he was much disturbed by the resignation of Lord Ellenborough. Sir Samuel Shepherd, the Attorney-General, who in every other respect would have made an excellent successor, was disqualified by deafness, and much perplexity arose respecting the appointment. The Regent pressed that Lord Ellenborough should be consulted on the subject, but this Lord Eldon very properly resisted, saying, “that if those who possessed under the Crown the great law offices were to be advised with as to the question who should be their successors, a choice, which ought to be made at the time of filling the vacancy, of the best and most eminent men at *that time* in the profession, would seldom be

⁷ 38 Parl. Deb. 1081–1114.

* Ib. 1316. In 1831, when the House of Commons was disposed to reject the Reform Bill, the proceeding more nearly resembled the abrupt dissolutions of the 17th century. On that occasion the King said, “I have come to meet you for the purpose of proroguing this Parliament, with a view to its immediate dissolution.”—*Hansard*, 3rd series, vol. iii, p. 1810.

On the 23rd of July, 1847, while I was a member of the Cabinet, the Queen, having intimated in her speech from the throne that she meant forthwith to dissolve the Parliament, a prorogation was ordered; and as soon as her Majesty had returned to her palace, she held a council, at which she signed an order for the dissolution,—and all the writs for the new elections went by the post the same evening.

made, and the succession would probably in all cases be settled by management and intrigue." Lord Eldon laudably selected Mr. Justice Abbott, who had been his most useful "Devil" when he was Attorney-General, and who as a Puisne Judge had displayed the highest judicial ability. He thus justified his choice in a letter to Lord Kenyon, which I am afraid the common reader may find dull, but which is so full of delightful Westminster Hall gossip, that, for the sake of my professional friends, I have not the heart to exclude it. After stating that he is confined to the house by a fit of the gout, he thus proceeds:—

"I agree with you that, generally speaking, the Chief Justice of the King's Bench should be a Peer, even if there had been no usage upon the subject. But then the state of the profession must admit of it. I have not been able to find (in that state) a person fitter for it than Abbott. Now see the effect of this. Lord Mansfield had had long practice in lucrative situations at the Bar,—he was of a noble family—he was not likely to have descendants, that is, issue. Your father had been, at the Bar, the most eminent lawyer of our times; he had made by his practice, independently of the law offices, a larger fortune than any professional man of his time. When called to the King's Bench I know (I think) myself, that Peerage was one object with him in accepting the office; and if Providence had not suffered him to live but the shortest time in the office, a peerage would have gone to his children, with ample means to support the dignity. Lord Ellenborough had likewise made some fortune, much less, certainly, at the Bar; but if he had died before Mr. Way, I doubt whether the Peerage *there* would have been either convenient to the family or useful to the public. As to the Common Pleas, when C. J. de Grey went out, they gave him a peerage in order to find a Chief Justiceship for Wedderburn. You see that peerage has been obliged to be helped out by office. Lord Loughborough had no children; his peerage, therefore, as Loughborough, could not descend; and his office would support him during his life. What he meant, when he left the Chancellorship, by getting an unendowed earldom for his nephew, I can't pretend to say. When I came to the Common Pleas, I had made some fortune in a successful practice at the Bar and in the great law offices, which I held nearly twelve years. Mr. Pitt was unwilling to give me an office which would take me out of Parliament; I could not be in it unless in the House of Lords, and I can assure you that I have often thought that, if I had survived the acceptance of the peerage but a short time, I had accepted what would have been a nuisance to my family, and no benefit to the public. Of our dear friend Lord A., can any body now say that it was a wise measure on his part to accept a peerage?" Now,

^a Lord Alvanley. His accomplished son is certainly an ornament to the peerage.
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as to Abbott, his practice has been behind the bar. He never had any office, I think not a silk gown: he enters, therefore, upon the office in very moderate circumstances, with a considerable family. The permanent offices of profit, in the gift of the Chief Justice, as I understand, without exception, are not any of them likely to be vacant whilst he is likely to live or to hold his office—what he can save out of the other emoluments of the office, he did not, and indeed he could not, think would enable him to transmit with a peerage a fully competent fortune to support it; his health is tender, and his eye-sight not in a very safe state: upon the whole, his own difficulty about taking the office, was the apprehension that peerage was to go with it. He immediately determined, if it was not. As to himself, this determination appears to me to have been quite right. If a contrary determination would, as to the public, have been right in any *other* person at the bar, where are you to find one (in whom, in point of circumstances, it had been right with peerage), to whom this great office could have been offered? The Attorney-General, from his deafness, could take neither chiefship; that of the King's Bench could not be offered to so young a man as the Solicitor-General. He refused that of the Common Pleas, as not yet having any fortune to leave to his family. Upon the whole, we endeavoured to do the best we could: we could not do what really would have been unexceptionable. It was impossible."

Lord Chief Justice Abbott (afterwards created Lord Tenterden) fulfilled the highest expectations that could have been formed of him, and I feel personally grateful to those who advised his elevation. I practised under him till his death,—having daily fresh reason to admire his profound knowledge of his profession, his extraordinary soundness of intellect, and his invariable and earnest love of justice.^b

In a few days after Lord Eldon had resumed his labours in Lincoln's Inn Hall, he was dreadfully shocked by the melancholy death of Sir Samuel Romilly, who had been so long by far the first advocate in his Court, and with whom, although they were so much opposed to each other, not only in party warfare, but on all the principles of government and legislation, he had always lived on terms of courtesy and mutual respect. Taking his seat on the bench on the morning after the fatal event,—as soon as he cast his eye on the vacant place within the bar which Romilly had been accustomed to occupy, his eyes filled with natural tears, and exclaiming, with unfeigned emotion, "I cannot sit here,"—he withdrew, and the Court was adjourned.

In the same month he lost his old friend Queen Charlotte,

^b While he was Chief Justice, I passed the most agreeable part of my forensic career, before I was tossed on the sea of politics. I was made Solicitor-General on his death, in 1832.

who ever regarded him as the wisest and honestest of mankind; but she had ceased for some years to have much influence, and her death was chiefly noticed by its rendering necessary some arrangement for the custody of the King's person.

This was the first subject brought before the new Parliament, which met in January, 1819. Lord Eldon at last agreed to "disquantity" the train of his old ^{A.D. 1819.} master. The Windsor establishment of lords in waiting and grooms of the bed-chamber was greatly reduced, and the Duke of York was constituted CUSTOS of the King's person, with an additional allowance of 10,000*l.* a-year. But a proposal being made that this should be paid out of the privy purse, of which, unfortunately, his Majesty could make no use, and which was idly accumulating, the Chancellor said, "the privy purse was as completely private property in the King as anything belonging to any of their Lordships was private property in them: now, the private property of any subject during mental alienation was placed under proper care that it might be forthcoming for his use at the return of his reason,—and he would put it to their Lordships, whether the Sovereign ought to be deprived in his affliction of that which was allowed to the humblest of his subjects—the benefit of the principle which arose from a hope of his recovery. It did not follow, however, that the King's privy purse was liable, like the private property of a subject, to the maintenance of the proprietor during lunacy,—the King being entitled both in health and in sickness to a maintenance from the nation, irrespectively of his privy purse." This reasoning was not considered very consistent or very satisfactory, and the arrangement caused a good deal of disgust in the most loyal bosoms.

The session was an uncomfortable one for the Ministers, who, although omnipotent in the House of Lords, met with several mortifying checks in the House of Commons, inso-much that Lord Liverpool seriously thought of resigning. The monetary question was still the most difficult to deal with. Lord Eldon was much hurt by finding that Peel had sided with the "Bullionists," whom he considered to be almost as dangerous as the "Spenceans," and he could not be made to see the objections to a forced paper currency. He therefore resisted the proposal to return to a metallic circu-

lation; and, standing out in the Cabinet—seemingly alone,—was for postponing the consideration of the subject for two years. This resistance brought him the following remonstrance from the Premier:—

“I am sanguine enough to think that we have a reasonable chance of success, in carrying the measures which were discussed on Saturday; but whether I may turn out to be right or wrong, as to this I am quite satisfied, after long and anxious consideration, that if we cannot carry what has been proposed, it is far, far better for the country that we should cease to be the Government.

“After the defeats we have already experienced during this session, our remaining in office is a *positive* evil. It confounds all ideas of government in the minds of men. It disgraces us *personally*, and renders us less capable every day of being of any real service to the country, either now or hereafter. If, therefore, things are to remain as they are, I am quite clear that there is no advantage, in any way, in our being the persons to carry on the public service. A strong and decisive effort can alone redeem our character and credit, and is as necessary for the country as it is for ourselves. As to a postponement for two years, it would be mere self-delusion, and is far more objectionable in my judgment, in every bearing, than at once renouncing all idea of setting the finances of the country right.”

Upon this threat of breaking up the Government, the Chancellor appears to have renounced any intermeddling on such subjects, and to have confined himself to law and religion. He again fought the battle of Catholic emancipation against Lord Donoughmore—and, this year, with better success, having a majority of 147 to 106.^d

A more formidable assault was made by Lord Grey, who actually introduced a bill to do away with the declaration against transubstantiation, so that Roman Catholic peers might sit in Parliament, as they had done from the Reformation till the latter part of the reign of Charles II. But the Lord Chancellor opposed the principle of the measure as most dangerous. He said that “the law of Charles II. had been re-enacted in the first Parliament of William III., the founder of our civil and religious liberties. It had been thought necessary for the preservation of these that Papists should not be allowed to sit in Parliament, and some test was therefore necessary by which it might be ascertained whether a man was a Papist or a Protestant. The only possible test for such a purpose was an oath declaratory of religious belief; and, as Dr. Paley

had observed, 'it was perfectly just to have a religious test of a political creed.' He entreated the House not to commit the crime against posterity of transmitting to them in an impaired and insecure state the civil and religious liberties of England." To his great delight the bill was rejected by a majority of 141 to 82; and he thought that all danger from such attempts must in future be obviated by the Duke of Wellington's accession to a political office and a seat in the Cabinet.

But the great marvel of this session was, that the Lord Chancellor himself actually proposed a bill to abolish *trial by battle* in real actions, and entirely to do away with *appeals of murder*, which were to be decided in this warlike manner. Trial by battle in real actions had been introduced by William the Conqueror, had been occasionally practised so recently as the reign of Elizabeth, when the lists were erected and the champions sworn in Tothill Fields, before the Judges of the Common Pleas—and it might still be demanded by either party. An appeal of murder had lately been prosecuted in the Court of King's Bench, when I myself saw the appellee, on being required to plead, throw down his gauntlet on the floor, and insist on clearing his innocence by battle,—as the Judges held he was entitled to do. And Lord Holt, Mr. Dunning, and other great lawyers had declared that this appeal of murder, which might be brought after an acquittal before a jury, and in which the Crown had no power to pardon, was "a glorious badge of the rights and privileges of Englishmen." Yet Lord Chancellor Eldon, to the amazement of the House of Peers and of the public, moved the second reading of a bill sent up by the Commons, to reform these practices, which he described as abuses, and, notwithstanding their antiquity, attacked in the most unsparing manner:—

"With respect to civil cases," said he, "the 'trial by battle' was permitted only in real actions, and even in these the parties were not suffered to fight *in propria persona*,—they were compelled to confide their interests to *champions*, on the principle, that if one of the parties were slain, the suit would abate. They were, therefore, under the necessity of appointing champions, and these were to fight from morning till the stars appeared in the firmament at night, or till one of them used what the law-writers called the 'horrible word' *Craven*,—and according to the result of the battle the right to the property was deter-

mined. Then, as to 'appeal of murder,' he thought it could not be allowed to continue, taking away trial by battle; for, according to the old law, those who made the appeal were obliged to do so at the hazard of their own lives. But he thought it a great absurdity that a man who had been acquitted by the unanimous opinion of a jury should again be put into jeopardy of his life, provided any person standing in a certain degree of relationship to the deceased thought proper, from motives either of vengeance or of avarice, to proceed against him by way of civil suit. Was it not also a very gross absurdity that the Crown, in which the power of pardoning offences against the public was invested, should not have the power of pardoning in the case of an appeal, and yet that the appellor, if successful in his appeal, might grant life and liberty for a sum of money? Proceeding by indictment, if the prosecutor *compounds the felony*, he is liable to severe punishment; but if he prefers an appeal, he may lawfully stay execution for a bribe. It was indeed surprising that such a law should have continued a part of our system, which in other respects came so near to perfection."

The Lords seem to have been struck dumb with astonishment, for, without another word being uttered, the bill was agreed to, and the House adjourned. I must observe, however, that this was a measure, not concocted by such schemers as Romilly or Mackintosh, but framed by the Attorney-General, with the authority of the Cabinet.—Without any other memorable occurrence in which Lord Eldon was concerned, he had the satisfaction to terminate the session by a prorogation.⁸

Whether from some misgiving that the Lord Chancellor no longer stood *super vius antiquis*, or from what other cause I know not, the Government was not in good repute even with the Tory party, and it would probably have fallen to pieces soon, had it not been strengthened by the alarm which the agitation of a few contemptible demagogues now spread through the country.

But before I come to scenes so disgraceful, I have to record a joyful event, of which the Chancellor was officially called upon to be a witness—the birth of the Princess Victoria. The Duke and Duchess of Kent had been travelling on the Continent, when her Royal Highness gave hopes of presenting an heir to the throne, and they most happily resolved, in spite of some difficulties to be overcome, that the "auspicious babe" should first see the light in the happy Island which it might one day have to govern. On the 24th of May, 1819, Lord Eldon was summoned to Kensington Palace, according to royal

etiquette, to attend the accouchement. He had the happiness to return home to Lady Eldon with news of the birth of a fair Princess, and that all was going well both with mother and child. It is said that, rubbing up his recollection of Shakspeare, he exclaimed,—

"This royal infant (Heaven still move about her!),
Though in her cradle, yet now promises
Upon this land a thousand thousand blessings,
Which time shall bring to ripeness.—
In her days every man shall eat in safety,
Under his own vine, what he plants, and sing
The merry songs of peace to all his neighbours."

Notwithstanding the coercive measures of 1817, the discontents in the manufacturing districts had seriously increased, and Mr. Henry Hunt and other mob-orators were holding meetings in different parts of the country, which were dangerous to the public peace. These meetings most undoubtedly ought to have been prevented or dispersed, and the ringleaders ought to have been prosecuted and punished. For such salutary purposes the existing law of the land, and the civil force, if vigorously and judiciously applied, would have been abundantly sufficient. But Ministers were at first supine, and then indiscreetly active. Lord Eldon was early alarmed by the danger: but instead of warding it off by constitutional means, he was for resorting to his old recipe, and instituting prosecutions for high treason. Thus he wrote to Sir William:—

"Your exhortations to the King's servants, I doubt, can't reach many of them, for, with the exception of Liverpool, Castlereagh, Sidmouth, Wellington, Van, and myself, they are all, eight in number, in different parts of Europe. We meet daily, but can resolve on nothing. In fact the state of our law is so inapplicable to existing circumstances, that we can't meet the present case: and I am as convinced as I am of my existence, that if Parliament don't *forthwith* assemble, there is nothing that can be done but to let those meetings take place, reading the Riot Act, if there be a riot at any of them. Prosecutions for *sedition* spoken at them, we have now in plenty on foot—and they may come to trial nine months hence. They are not worth a straw: and blamed as I was in 1794 for prosecuting for *High Treason*, all are convinced here that *that* species of prosecution can alone be of any use. I think, however, that it won't be attempted: the case is as large and complicated as mine was in 1794, and nobody has the spirit to attempt it."

A meeting of a clearly illegal nature had been advertised to take place at Manchester, on the 16th of August. It was

improperly allowed to assemble, without any warning from those appointed to preserve the public peace, and a disturbance arising, a regiment of yeomanry cavalry was very indiscreetly employed to charge the multitude,—in consequence of which several lives were lost. This tumult, denominated by the vulgar the “Battle of Peterloo,” and the “Manchester Massacre,” caused much excitement all over England, and the conduct of the magistrates, under whose orders the military had acted, was severely condemned. The Government probably did right in supporting them; but might have done so with more moderation. Lord Eldon thought that a still more energetic course should be taken, and urged in vain, that now at last, with such *overt acts*, Hunt and his associates ought to be prosecuted and punished as traitors:—

“Neither the Prince nor most of his Ministers,” he writes to Sir William, “seem to act as you think they should.” He came here late on Thursday evening—rather night—and went off again to the Marquess of Hertford’s, I *believe*;—that he went there or elsewhere is certain. Eight out of fourteen Ministers, I believe, abroad—in that there is no harm: the other six are full as many as can usefully converse upon any subject. So, at least, I think experience has taught me. Of the six, five are at their villas, and I alone am here. They come, however, daily: not that I can see that there is much use in it. There are but two things to be done—to treat what is passing as high treason, or as misdemeanor; and when the Law Officers have said what *they* can do, what more is to be done? They decide for misdemeanor; and who will be bold enough to command them to institute prosecutions, such as they think they can’t maintain? Without all doubt, the Manchester magistrates must be supported; but they are very generally blamed here. For my part, I think if the assembly was only an unlawful assembly, that task will be difficult enough in sound reasoning. If the meeting was an overt act of treason, their justification is complete. That it was such, and that the Birmingham was such, is my clear opinion. Under Edward’s statute, I know very well it would be difficult to maintain that; but, under my act of the 36th of the King, in force at this moment, a conspiracy to levy war—a conspiracy to depose him—or a conspiracy by force to make a change in either House of Parliament,—manifested by an overt act,—is treason. Can any man doubt, connecting Birmingham and Manchester together, that these meetings are overt acts of conspirators, to instigate to such specific acts of treason, or some of them? I can’t doubt it. But how ridiculously shall I be reasoning in Parliament, if the prosecutions are for misdemeanor! An unlawful assembly, *as such merely*, I apprehend, can’t be dispersed; and what constitutes *riot* enough to justify dispersion is no easy matter to determine, where there is not actual violence begun on the part of those assembled.”

"In a few days after he again wrote to Sir William, in no degree tranquillised :—

"The accounts in general, from the disturbed districts, very gloomy, portending storms, and those not afar off. The better sort of people in the kingdom are, as it seems to me, insane : they are divisible into two classes ; the one insane, and manifesting that insanity in perfect apathy, eating and drinking, as if there was no danger of political death, yea, even to-morrow : the other, your Cokes, your Bedfords, &c., hallooing on an infuriate multitude to those acts of desperation and fury which will first destroy those who encourage the perpetration of them. We are in a state in which the country must make new laws to meet this new state of things, or we must make a shocking choice between military government and anarchy. Lord Clarendon, I think, speaks of Lord Keeper Coventry as fortunate in not living to see the civil broils of his country : I am excessively fearful that no man can now hold the Great Seal for any material portion of time, and live without seeing what Coventry did not see."

The Chancellor was overruled in his scheme of a trial for high treason,—all the rest of the Cabinet concurring in the opinion of the Attorney and Solicitor-General, that the prosecution could only be for a misdemeanor ; but he was comforted by finding that in arguing the necessity of new laws, he had made an impression on at least one member of the Cabinet. Lord Sidmouth, the Home Secretary, sent him a letter, saying, "These considerations have convinced me, though they have not convinced others, that the laws ought to be strengthened, and the military force of the country augmented, without delay ; and for these purposes Parliament should be assembled in the month of November, at the latest. It is, however, determined to wait and see—a determination, believe me, wholly unsuited to the exigency of the present moment." Lord Eldon wrote back in answer :—

"The great question is, what is to be done? I can say no more upon that, than I have said. In thinking what laws may be necessary to be enacted, it occurs to me to recollect that, at the time of the union with Ireland, I told Mr. Pitt that I thought the great objection to it was, that it would perhaps introduce into this country sedition and treason, in their Irish modes and forms ; that, if such should be the case, we should have to attempt passing, at Westminster, such laws as Ireland had enacted ; that my belief was, that no Parliaments at Westminster ever would pass such laws ; that if they would not, Great Britain, as a land of anarchy, would be a land in which it would be impossible to exist ; and if they would pass such laws, it would be a land of necessary tyranny, in which existence would not be to be wished. Treason and

sedition do now appear in such modes and forms. We shall see whether I was right as to what the consequences must be. As sure as I am living, nothing but Parliament can attempt a remedy for present evils. Whether that attempt will succeed, I know not; but if Ministers will not try it, they ought to make way for other Ministers, who either will try it, or some other measure which may occur to them and does not occur to me. God bless you, and may his Providence avert the evils which seem impending over us."

Before Parliament met, that most amiable, excellent and loyal nobleman, the late Earl Fitzwilliam, was dismissed from his office of Lord Lieutenant of the West Riding of Yorkshire, because he had joined in calling a meeting of freeholders to consider of a petition to the Crown and the two Houses of the Legislature, upon the present position of affairs—in terms supposed to reflect upon an answer recently given by the Regent to an address from the City of London. This news was exultingly conveyed in the following letter to Lord Eldon:—

"MY DEAR LORD,

"Richmond Park, Oct. 21st, 1819.

"I had not a single moment, before I left town to-day, to tell you that a messenger has been despatched to Wentworth, with a letter informing Lord Fitzwilliam that the Prince Regent has no further occasion for his services as Lord Lieutenant of the W. Riding of Yorkshire. This was a necessary act of insulted authority; we shall now be abused by our enemies: if we had shrunk from it, we should have been despised by our friends, and perhaps by our enemies too. The clouds in the North are very black, and I think they must burst.

"Ever truly yours,

"SIDMOUTH."

It is most refreshing to find here a striking illustration of the lines of the poet:—

"With secret course, which no loud storms annoy,
Glides the smooth current of domestic joy."

Lord Eldon, during this time, was happy, and spreading happiness around him, at his retreat in Dorsetshire, and wrote the following charming letter to his grandson, the present Earl of Eldon, then a boy of fifteen—which must make us love the old peer, in spite of his passion for coercive acts and prosecutions for high treason:—

"MY VERY DEAR JOHN,

"Encombe, Sept. 12th, 1819.

"We have not yet been a week here, but I have now had time to see all that is to be seen here.

"And first, Grandmamma and Fan send, with me, the warmest love to you. I hope you got Mamma's letter safe : and we shall be most happy to hear that you are well.

"There are a great many partridges, a great many hares, and, I think, a fair quantity of pheasants. The ponies, Diamond and Dancer, are quite stout, and fat as butter. * Aunt Fan's little pony, Dapper, in endeavouring to open for itself a stable door, got its head between the door and the side of the door where the lock is, and has very nearly hanged himself. He is much hurt, but seems in a fair way of recovery.

"The greyhounds, Messrs. Smoker, Spot, Smut, and Fly (the two latter I shall call Mesdames), are all as they should be ; so are also Messrs. Don, Carlo, Bill, and Bob, the pointers. Bill and Bob have been very good and diligent in their winter education, and I think will be towards the top of my dog-college.^b Don is a freshman, sent down here a few days before we came, but he is a capital performer in the field. Poor old Mat, whom you may remember, a pointer, seems quite superannuated, and I think will see no more service.

"Your friends at the farm, Mr. and Mrs. Parmiter and their family, all are well, and they and Mr. Willis inquire much after you. Mr. Parmiter's dog Tiger is in excellent condition, and, when taken out, finds hares and rabbits in abundance.

"And now for great Cæsar. He is amazing fat, looks very handsome, is more affectionate than ever, and is particularly careful in his attendance at the breakfast-room window, when the good things for the teeth and palate are there : as to the loves between him and Aunt Fanny, they are endless—such endearing, such salutations, such pettings, as no Dorsetshire or other Christian has the good fortune to be honoured with.

"In the course of the winter I have had a beautiful vessel built—a sailing vessel of good size—in which we went by sea yesterday, to Lulworth and back, with all sails bent, and colours flying at the mast-head and other parts of her,—a very excellent and beautiful vessel.

"We have had a great piece of good luck in fishing, having caught in one fishing about twenty-four mullet, whittings, &c., &c., of large size.

"And now, my dearest John, do you ask me why I enjoy all these things so much? It is because, as your friend Horace has it, they lull one into the '*Solicitæ jucunda oblivia vitæ*.' It is because one enjoys them by contrast with meritorious labour at other times : and depend upon it, neither Encombe nor any other place will have any lasting charms, unless, in the period of life spent in education, a great stock of

^b In another letter to the same correspondent he thus contrasts the characters of Bob and Bill :—"Bob has considerable natural merit, but he has contracted such a stubborn self-will, that we are obliged to administer discipline very frequently ; as soon as it is

over, he is just as much as ever untractable : whereas Bill, after flogging, feels that sense of degradation, and regret that he deserved it, which is a great security with men as well as dogs for virtuous, honourable, and good future conduct."

information is laid in in the mind, and a great stock of virtuous and religious feeling is implanted in the heart. That you may be diligent in acquiring both in youth, in order that you may be truly happy when you grow up to manhood, is the heartfelt wish, and will be the prayer offered up daily to Heaven on your account, of your truly affectionate

“ELDON.”

Parliament met on the 23rd of November; and on the first day of the session, Earl Grey, having moved an amendment, pledging the House to inquire into the proceedings connected with the late Manchester meeting, the Lord Chancellor said:—

“However much, as an individual, I may wish for inquiry, to vindicate the magistrates and the Government, I must, in my public capacity, declare that it cannot be granted consistently with the spirit of English law. Considering that proceedings are in progress before the criminal tribunals, I am reluctant to deliver an opinion upon a question which will be regularly decided there; but when I read in my law-books that numbers constitute force, that force constitutes terror, and that terror constitutes illegality, I feel that no man can deny the Manchester meeting to have been an illegal one. The two Houses of Parliament did, I admit, inquire and publish Reports before the treason trials of 1794; but that was not with the view of biasing the opinion of judges or juries, and I object to parliamentary inquiry during the pendency of prosecutions except where some continuing danger creates a state necessity for such interference. I am sure that the Government will be found to have done its duty; and if the magistracy have erred at all during the late excitement, their error has been rather on the side of remissness than of undue vigour. I will not now give any opinion on the proceedings at Manchester, as all the facts are to be laid before a jury. This only I owe it to myself to say,—that it is my fixed, my unqualified opinion, that the meeting at Manchester, on the 16th of August, was, in every sense of the word, an illegal meeting.”

Such a declaration of the law, while inquiry was denied, I think was very exceptionable. One bad consequence which it produced was, that when Mr. Hunt's trial came on, Mr. Justice Bayley, a very learned and honest, but not very strong-minded, judge—to show his independence, expressed considerable doubts respecting the character of the meeting, and actually advised Sir James Scarlett, who was leading counsel for the Crown, after the trial had lasted some days, to give up the prosecution. Indeed, it was owing to the firmness and extraordinary ability of that gentleman, who considered himself bound to exert himself the mere from being politically opposed to the Government, that justice was not defeated by

an acquittal.¹ What would have been the consequence if the Lord Chancellor's advice had been taken, and the indictment had charged Mr. Hunt with 'traitorously imagining the death of our lord the King, and levying war against him in his realm?'²

Now was passed the unconstitutional code called "The Six Acts," the latest violation of our free Constitution, and I believe the last; for we have seen, both under Whig and Tory rule, considerably greater danger from tumultuary meetings and secret associations, and yet on these occasions tranquillity was restored and preserved, and protection was afforded to life and property, by a skilful and vigorous use of the ordinary powers of the law. The most obnoxious bills, then passed, which fortunately have all expired or been repealed, were—to prevent public meetings without the licence of magistrates,—to permit a search in private houses for arms,—to impose a high stamp duty on newspapers, for the avowed purpose of checking their circulation,—and to subject to transportation beyond the seas any person who should be convicted a second time of publishing a libel. These, I presume, were all suggested by the Lord Chancellor, and they were all gallantly defended by him. "I ask the House," said he, "what they think England would be like if these bills should *not* pass? The *Arms Bill* does not authorise the searching of a house on the mere information that the owner of it has arms in his possession; such possession must be 'for a purpose dangerous to the public peace.' The principle of the right of the King's subjects to possess arms for their defence is not quite so broad as it has been frequently represented; it is accompanied with the qualification that 'the arms so to be possessed by them are suitable to their situation in life.'³ If the object of the persons to whom these bills are to be applied is to give to their meetings, by the collection of great numbers, the quality of physical force for the purpose of procuring, by the display of that physical force, any alteration in

¹ When Sir James Scarlett returned to London, he was warmly thanked for his exertions by Lord Liverpool, who acknowledged to him, that if Mr. Hunt had been acquitted there must have been a change of Administration.

² Being convicted of a misdemeanor, he was very properly sentenced by the Court of King's Bench to imprisonment for two years in Dorchester gaol. An attempt to have

him hanged, drawn, and quartered would have insured him an ovation, amidst the plaudits of hundreds of thousands, all over England.

³ He might have added,—and I wonder that he did not,—another condition specified by the Bill of Rights,—"that the King's subjects who claim to use arms in their defence are *Protestants*."

the government in Church or State,—I must declare that such a proceeding is an overt act of high treason." With respect to the bill for the transportation of libellers, he said, "I maintain, my Lords, that it is necessary for the suppression of libels, that the courts should have the power which we now propose to vest in them. As the law stands, if a man, between the times of his prosecution and his judgment, think proper, day by day, and hour by hour, to repeat his offence by means of his servant, his wife, or some other authorised person, there is nothing to prevent him. Until a great lawyer, and a great reformer of laws [meaning poor Michael Angelo Taylor, who had not only introduced the Pillory Abolition Bill, but made a yearly motion on the delays in Chancery], had thought proper to take away the punishment of the pillory; there was some check on this species of pertinacity; but now the Court can only imprison and fine, and often the fine is imposed where it cannot be paid." It is true that each of these publications may form the subject for a distinct prosecution; but if they extend to the number of 500, or 1000, or 1500, is it possible for the duration of human life to afford a sufficient space for a punishment equal to the incalculable mischief which their circulation will effect? I vote for these measures because I consider them as tending to secure the peace, and to promote the happiness, of the people." The alarm caused by such language was very great,—so that for a time the Ministry was strengthened, and the bills were all carried by vast majorities. I make no doubt that Lord Eldon acted conscientiously in proposing and supporting them; but in doing so he showed at once a total disregard of the principles of the English Constitution, and entire ignorance of the feelings of the English people. The "Six Acts," bringing unspeakable odium on the Government, increased and prolonged the ferment which they were intended to suppress.

The two Houses finished their work with unexampled despatch, and were, on the 29th of December, adjourned to the 15th of February following.

Before that day arrived, the aspect of public affairs was greatly altered by Death, who impartially visits the cottage and the palace. On the 22nd of January, 1820, expired his Royal Highness the Duke of Kent,—a prince

ⁿ This would be contrary to Magna Charta, and the Chancellor can hardly have thrown such an imputation on the Judges. The efficacy of fines legally imposed proceeds from their being paid by a subscription.

who had continued to keep aloof from party politics, but, performing in an exemplary manner all the duties of his station, was universally beloved and respected.

Seven days afterwards, George III., whose mind was too much weakened to allow him to be conscious of his bereavement, was himself released from suffering. This event produced a deep sensation, although it was not likely to be attended with any political change, and ten years ago his reign had in reality terminated. But his name had still been preserved in all public acts; his image appeared on the coin; the nation still considered itself under his auspices; much sympathy had been excited by the thought that a mighty monarch, reduced to a state of mental imbecility and blindness, was cut off even from the intercourse of his own family, to whom he had been so tenderly attached, and, his faults being forgotten, people were disposed to think only of his singleness and sincerity of purpose, his determined resolution, and his truly English heart. He certainly was a prince possessed of very valuable qualities; and it is only fair to state, that everything discovered concerning him since his death has tended to raise our opinion both of his abilities and of his generosity."

"I have had an opportunity of reading his private correspondence with Lord North, which conveys a wonderful idea of his activity, familiarity with business, and knowledge of character. His steady attachment to that Minister is highly creditable to his heart. With a better education, he might have been one of the greatest sovereigns who ever filled the throne of England.

I am a *mol* of him, recorded by Lord Eldon, he might even have displayed a talent for dramatics. — On one occasion George III., when he came out of the House of Lords,

after opening the session of Parliament, said to me, 'Lord Chancellor, did I deliver the speech well?' 'Very well indeed Sir, was my answer. 'I am glad of that,' replied the King, '*for there was nothing in it*.'

I remember being told, when I was a boy, although I never saw the anecdote in print, that having knighted a gentleman of the name of *Dax*, at a levee he'd on the 29th of September, he said, "Now I know that I am a King, for I have turned *Dax* into *Knight*, and made *Lady-Dax* at *Michaelmas*."

END OF VOL. IX.

